

ALPHABETIZED BIBLIOGRAPHY ENTRIES

"100+ Cases Resolved in N.Y. Settlement Week" Alternatives To the High Cost of Litigation October, 1990 V.8 N.10 p. 157 New York State held a week in which courts were closed and cases were redirected to mediation. The program resulted in settlements in almost one-third of the cases. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ SUBJ MATTER: GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

"100+ Million Saved By SJT" Alternatives to the High Cost of Litigation May, 1990 V.8 N.5 p. 73 A two day summary jury trial resulted in a settlement of an antitrust suit that had cost the parties \$60 million and nine years of work before the trial began. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ SUBJ MATTER: ANTITRUST/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ JUDICIAL PARTICIPATION

"1989 Annual Report of the Colorado Supreme Court Grievance Committee" Colorado Lawyer May, 1990 V.19 N.5 pp. 817(6) This report analyzes grievances filed in Colorado against practicing attorneys. SUBJ MATTER: OTHER PROF MALPRACTICE/ COMPLIANCE ISSUES/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE

"A Kinder, Gentler Jurisprudence or the Fee Also Rises" Advocate (Idaho) March, 1990 V.33 N.4 pp. 5(2) A satirical look at the alternative dispute resolution process. SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ FAIRNESS/ FISS

"A Novel Twist For Ombuds" Alternatives to the High Cost of Litigation July, 1990 V.8 N.7 p. 105 This article discusses the advent of the "outside-ombuds" and relates the experience of an "outside-ombuds" in resolving a defense contracting dispute. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS

"AAA Arbitration Permitted Under 'Amex Window', N.Y. Court Decides" Tax Management Financial Planning Journal August 21, 1990 V.6 N.17 pp. 359(1) In re Cowen & Co. v. Anderson, 1 No. 172

(N.Y. Ct. App. 7/10/90) holds that the Amex Constitution allows a customer the right to elect to arbitrate a dispute before the American Arbitration Association even when the broker-customer arbitration clause explicitly provides resolution only by NYSE, Amex, or NASD. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"ABA and NAAG Now Studying, Promoting ADR Use Among States' Attorneys General" Alternatives to the High Cost of Litigation February, 1990 V.8 N.2 p. 23 This article discusses the efforts of the ABA to promote the use of ADR techniques among states' attorneys general. This effort is the result of a survey that found AG offices very interested in ADR. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: FARM/ SUBJ MATTER: GENERAL

"ACAS Calls for Greater Employee Involvement" (Advisory, Conciliation and Arbitration Service) (Great Britain) IRS Employment Trends May 22, 1990 V.4 N.64 pp. 3(2) This article summarizes the Advisory Conciliation and Arbitration's Annual Report which takes a broad look at trends of the 1980's, focusing on industrial relations in 1989. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ POWER IMBALANCE

"ACUS Advocates Broad U.S. Use of Ombuds By Agencies With Significant Public Dealings" Alternatives to the High Cost of Litigation November, 1990 V.8 N.11 pp. 171(3) This article evaluates the recommendation of the Administrative Conference of the United States for the use of ombuds in settling disputes with private citizens; the recommendation outlines the necessary factors for an effective ombudsmen. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: LIABILITY & IMMUNITY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFIDENTIALITY/ OMBUDSPERSON

"ADR Database" Alternatives to the High Cost of Litigation June, 1990 V.8 N.6 p. 96 The National Center for State Courts compiled a database on ADR programs operated by state courts across the country.

The database reveals that most states have ADR programs and use of the programs is being extended to non-traditional areas such as tort actions and contract disputes. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: OTHER TORTS

"ADR for Manufacturer - Dealer and Franchise Disputes" Alternatives to the High Cost of Litigation November, 1990 V.8 N.11 pp. 177(10) This committee report examines the nature of the disputes arising between dealers and franchises and discusses the suitability of various ADR methods in resolving them. NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"ADR Franchise" Alternatives to the High Cost of Litigation October, 1990 V.8 N.10 p. 159 This article describes the substantial growth of United States Arbitration and Mediation, an alternative dispute resolution service company that now has thirty-five franchises. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L

"ADR Success: The Farm Crisis" Alternatives to the High Cost of Litigation December, 1990 V.8 N.12 p. 197 This article explains the success that mediation has had in the numerous farmer-loan disputes which plague state and federal governments. It shows that ADR does work, and should be applied to other financial concerns. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: FARM/ ECONOMIC ADVANTAGES OF ADR

"Agency May Close Grievance Hearings" News Media & The Law March 22, 1990 - Spring V.14 N.2 pp. 28-29 The Montana Supreme Court has ruled that grievance hearings concerning public officials may be closed as provided for in the Montana open meetings law if the need for privacy outweighs merits of disclosure. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: ENVIRONMENT/ AGREEMENT ON PROCEDURE

"Agreements to Arbitrate Claims Under the Age Discrimination in Employment Act" Harvard Law Review December, 1990 V.104

N.2 pp. 568-587 Though both employers and employees would benefit from arbitrating claims under the Age Discrimination in Employment Act, it must be recognized that employees face disadvantages. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SENIOR CITIZENS AS PARTIES

"Alternative Dispute Resolution (ADR) Panel" (Alternative Dispute Resolution) The Labor Lawyer January, 1990 - Winter N.6 V.1 pp. 49-72 A panel discussion, conducted at the A.B.A. Labor and Employment Law Section meeting, which discusses different forms of ADR which could be used in the following fact pattern. Plaintiff sues her employer for constructive discharge based on sexual harassment and defendant employer fires the accused employee who then sues both plaintiff and defendant. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: USE OF BARGAINING TEAMS/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

"Amex Provision on AAA Arbitration Superseded by Agreement" Tax Management Financial Planning Journal June 26, 1990 V.6 N.13 pp. 276(2) The Second Circuit looked to the intent of the parties and ruled that a specific customer agreement, offering a choice of several self-regulatory organization forums, may supersede the provision of the American Stock Exchange (AMEX) Constitution giving customers the right to arbitrate disputes before the American Arbitration Association (AAA). ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

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"AMEX Arbitration Provision Requires Proceedings in NYC, Second Circuit Rules" Tax Management Financial Planning Journal September 18, 1990 V.6 N.19 pp. 400(2) The American Stock Exchange (AMEX) constitutional provision giving customers the right to arbitrate disputes with member firms before the American Arbitration Association was found by the district court in New York to plainly mean that the dispute be arbitrated in New York; only a separate agreement between customer and broker may supersede the "AMEX Window." ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ORGANIZATION POLICIES AND RULES

"Arbitration and Judicial Review" Scots Law Times March 30, 1990 N.13 pp. 113(4) This article discusses various dicta from the Court of Sessions concerning the review of arbitral decisions and argues that there is no reason, either in the prior case law or the language of Rule of Court 260B, to exclude such decisions from judicial review. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ JUDICIAL PARTICIPATION

"Arbitration" Denver University Law Review June 22, 1990 - Summer V.67 N.4 p. 623 A one page summary of the Tenth Circuit's decision in Adams v. Merrill Lynch Pierce and Smith, 88 F.2d 696. The case addressed the issue of the enforceability of court ordered arbitration under the Securities Act of 1933, the Securities Exchange Act of 1934, Oklahoma securities laws, common law fraud, breach of fiduciary duty, breach of contract and negligent management. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

"Arbitrators Not Required to Give Reasons for Decision" Tax Management Financial Planning Journal June 26, 1990 V.6 N.13 pp. 275(1) The Fifth Circuit held that the American Arbitration Association's Securities Arbitration Rule 42 does not require arbitrators to give an explanation for their decisions, for to do so would undermine arbitration's purpose of providing a quick, effective, informal means of dispute resolution. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE

COURTS/ SUBJ MATTER: SECURITIES/ ORGANIZATION
POLICIES AND RULES

"Australian DR Group Grows" Alternatives to the High Cost of Litigation July, 1990 V.8 N.7 p. 106 The article highlights alternative dispute resolution activities in Australia in general, and the four-year old Australian Commercial Disputes Centre (ACDC) in particular. Several ACDC cases are summarized, and ACDC ADR education and training methods are examined. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION

"Banking: An Alternative Proves a Smart Way to Do Business" (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. S11 Although the banking industry originally turned to arbitration to resolve disputes relating to the lender liability crisis of the 1980's, the industry now recognizes arbitration as an excellent method of resolving many types of disputes due to its speed, privacy and expertise. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ ECONOMIC ADVANTAGES OF ADR/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

"BBB Council Plans an Expanded ADR Effort" Alternatives to the High Cost of Litigation August, 1990 V.8 N.8 p. 123 This article notes the increasing alternative dispute resolution services being offered by the Better Business Bureau in order to help settle business-consumer disputes, including a mediation and arbitration discussion of services, high success rates, and strengths of the network. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: CONSUMER/ SELECTION OF APPROPRIATE PROCESS

"Brokerage Did Not Waive Its Right To Arbitration" Tax Management Financial Planning Journal October 16, 1990 V.6 N.21 pp. 432(2) This article reports the outcome of a case from the Northern District of Alabama in which the court found no evidence of "stonewalling" by the defendant against plaintiff's request for arbitration, and consequently held that the defendant had not waived its right to arbitrate before the New York Stock Exchange. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING

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AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES

"Brookings Study Backs ADR; Calls For Court Experiments"
Alternatives to the High Cost of Litigation January, 1990 V.8 N.1
p. 1 The report contains a detailed description of the findings of the Task
Force on Civil Justice Reform and includes the Brookings report's strong
recommendations that courts require parties to assess suitability and
desirability of ADR procedures. INST NATURE: JUSTICE SYSTEM-
GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH
REPORT/ REQUIREMENTS: MANDATE TO USE/
REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ MED:
PRETRIAL CONF

"Calif. Court Grants Immunity to ADR Neutrals" Alternatives to the
High Cost of Litigation September, 1990 V.8 N.9 p. 139 A
California appeals court extended quasi-judicial immunity to mediators,
conciliators, and other third party neutrals who conducted alternative
dispute hearings, despite the fact that the neutral was selected and
compensated by the parties and not supervised by the court in any way.
SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER:
PUBLIC POLICY/ 3RD PARTY: LIABILITY & IMMUNITY

"Conciliation Perspectives: Alternate Dispute Resolution Program
Directors Reveal Diverse Opportunities for Attorney Involvement"
Quarterly (Christian Legal Society) June 22, 1990 - Summer V.11
N.2 pp. 9-11 Six attorneys describe diocese reconciliation ministry
opportunities in law practice, ethnic neighborhoods, the church, public
service, the judicial system, and international relations. MED:
ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED:
PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/
MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/
INST NATURE: RELIGIOUS ORGANIZATIONS

"Construction: Special Panels Often Needed" (ADR: A Special Report)
(California Law Business) The Los Angeles Daily Journal July 9, 1990
V.103 N.136 p. S10 Arbitration is an efficient means of resolving
construction disputes because it allows for relaxed rules of evidence,
provides an award that can be confirmed in court, and resolves problems
as they arise, avoiding prolonged labor stoppages. ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:
GENERAL/ SUBJ MATTER: CONSTRUCTION/ ECONOMIC
ADVANTAGES OF ADR

"Court Blocks Florida Law Requiring Non-Industry Arbitration Forum Choice" Tax Management Financial Planning Journal November 13, 1990 V.6 N.23 pp. 481(1) The District Court placed temporary restraining order on implementation of Florida law that requires securities firms to provide customers the option of having any dispute heard before the American Arbitration Association or any other industry forum. ARB: SELECTION OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES

"Court Enforces Arbitration Agreement's Exclusion of Federal Securities Claims" Tax Management Financial Planning Journal September 18, 1990 V.6 N.19 pp. 400(1) This article summarizes the district court's holding in Kelly v. Airbinder & Co., in which the court refused to alter the plain meaning of an arbitration clause solely because there was no longer a rule barring predispute arbitration provisions for federal securities claims. The court also refused to find that a broker, not a party to the original arbitration provision, may not enforce arbitration provision on third-party beneficiary principles. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Creating Alternatives for Asbestos Claims" (interview) Arbitration Journal March, 1990 V.45 N.2 pp. 3-8 An interview of Kenneth R. Feinberg who, as special master of asbestos litigation for two separate courts, is responsible for developing a process to resolve the many thousand asbestos claims filed in each court. INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ SUBJ MATTER: TOXIC TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

"Customer's Fraud Claims Not Subject to Arbitration Contract" Tax Management Financial Planning Journal December 11, 1990 V.6 N.25 pp. 513(1) Storer v. Miller, 914 F.2d 215 (11th Cir. Fla. 1990) holds that an arbitration provision, which was agreed not to apply "under certain of the federal securities laws," ought to be read to deny defendant's motion to compel arbitration even though the clause was only giving notice to their existing Rule 15c2-Z of the Securities Exchange Act which has since been rescinded. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ

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MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/
LEGISLATION

"DR Agreements Survive Bankruptcy: 3d Cir." Alternatives to the High Cost of Litigation March 1990 V.8 N.3 p. 41 The Third Circuit ruled in Hays & Co. v. Merrill Lynch, Pierce, Fenner & Smith Inc., 885 F.2d 1149 (3d Cir. 1989), that pre-bankruptcy mandatory arbitration clauses are enforceable, and that the trustee stands in the shoes of the debtor for the purpose of the arbitration clause and is bound to the same extent as the debtor. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ COMPLIANCE ISSUES

"Employment Termination Dispute Resolution Agreement and Procedure" Alternatives to the High Cost of Litigation December, 1990 V.8 N.12 p. 203 This article summarizes a recent development in the employment setting, namely arbitrating employee terminations. Utilizing a "Model Agreement" and "Model Procedure", the employer agrees to first turn to arbitration before pursuing termination matters in the courts. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ AGREEMENT ON PROCEDURE

"FAA Preempts Virginia Auto-Dealer Statute that Bans Some Arbitrations, 4th Cir. Rules" Alternative to the High Cost of Litigation July, 1990 V.8 N.7 p. 107 A discussion of a Fourth Circuit decision that state statutes on mandatory arbitration clauses are preempted by the Federal Arbitration Act. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

"Family Law: Mediation, Arbitration Now Critical." (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. S17(1) Most of family law practice is divorce work, and mediation is a requirement before the case can go forward in court. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ RELATION TO ONGOING LITIGATION

"Firm May Arbitrate Controversy Even Though Damages Not Sought" Tax Management Financial Planning Journal July 24, 1990 V.6 N.15 pp. 319(2) McCowan v. Sears Roebuck & Co., No. 89-9089 (2d Cir. May 25, 1990), holds that a dispute between a customer and a brokerage firm is a "controversy" subject to arbitration even when damages are sought only against the brokerage firm's corporate parent. Thus, the brokerage firm's motion for stay of federal and state securities claims against it pending arbitration of state law claims is granted. SUBJ MATTER: CORPORATE/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: SECURITIES/ ISSUE & CLAIM PRECLUSIVE EFFECTS

"FJC Studies Bankruptcy Appeals in 9th Cir." Alternatives to the High Cost of Litigation February, 1990 V.8 N.2 p. 25 This article is a summary of a Federal Judicial Center study suggesting the use of a specialized panel of bankruptcy judges to hear first level appeals rather than sending the case directly to the U.S. District Court. The study suggests that this will lower the costs of bankruptcy and help avoid delays. INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ COURT REFORM/ JUDICIAL PARTICIPATION

"Florida Sunshine Law, Mediation Law Collide: Can Government Agencies Mediate in Secret?" Alternatives to the High Cost of Litigation October, 1990 V.8 N.10 p. 167 This article discusses the conflict between Florida's sunshine laws, which require that certain meeting of governmental bodies be open to the public; and Florida's mediation law, which guarantees confidentiality to participating parties. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GOV'T/ CONFIDENTIALITY/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ JUDICIAL PARTICIPATION

"Health Care: Arbitration Now Standard in the Field." (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. S10(1) Binding arbitration clauses in insurance and HMO contracts are now standard in the health care field, but courts continue to disapprove of their use by hospitals and doctors. MED: OBTAINING AGREEMENT TO USE/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: MEDICAL MALPRACTICE/ POWER IMBALANCE/ REQUIREMENTS: CONTRACTUAL CLAUSES

"In Private and Public Fields, Ombuds Thrive" Alternatives to the High Cost of Litigation June, 1990 V.8 N.6 p. 93 This article foreshadows growth in the field of nonunion employee dispute resolution

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and particularly the use of ombudsmen as a response to the need to retain and attract skilled employees. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ OMBUDSPERSON

"Investors Fail to Show Individual Waived Right to Arbitration, Court Rules" Tax Management Financial Planning Journal December 11, 1990 V.6 N.25 pp. 512(1) Britton v. Co-op Banking Group, No. 89-15143 (9th Cir. Oct. 11, 1990), holds that securities fraud by selling a fraudulent tax shelter does not necessarily waive the accused's right to arbitration under an agreement to arbitrate. The Ninth Circuit remanded the cause and instructed that waiver is proper only when customers meet the "heavy burden" on discovering "whether the parties intended that a person in the (seller's) position have the benefit of the arbitration provision." ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: SECURITIES

"Investors: Choice of DR Forum" Alternatives to the High Cost of Litigation November, 1990 V.8 N.11 p. 170 This article notes a recent New York Court of Appeals decision finding that the standard arbitration language in many brokerage agreements in use today enables the investor to choose the forum for arbitration, rather than be limited to those administered by the NYSE, Amex or NASD. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Judges' Group, Congress Trade Court Bills; In Both, ADR to Help Cut Costs and Delay" Alternatives to the High Cost of Litigation July, 1990 V.8 N.7 p. 113 Federal judiciary policy makers have adopted a plan, the intent of which is to cut costs and delay. Although the plan is a reaction to a court reform bill that the policy makers disliked, it is important to note that both the plan and the bill feature a strong reliance on ADR. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: JUSTICE SYSTEM-OTHER/ AGREEMENT ON PROCEDURE/ LEGISLATION

"Labor Arbitration and the Law of Collective Bargaining Agreements" The Labor Lawyer June 22, 1990 - Summer V.6 N.3 pp. 805-838 The article discusses several factors that help employees obtain meaningful

redress of their employment disputes without the potential of costly and lengthy litigation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL

"Little Evidence of Companies Decentralizing Bargaining on Regional Basis." (Great Britain) IRS Employment Trends November 5, 1990 V.469 pp. 2(2) This is a summary of a report from the University of Cambridge finding that employers are moving organizations in the direction of decentralized multi-divisional structures, instead of regional factors, for the purpose of determining pay among the performance of specific business units. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

"Lower Court Properly Refused to Compel Arbitration of '34 Act Claims" Tax Management Financial Planning Journal November 13, 1990 V.6 N.23 pp. 481-482 Goldberg v. Bear, Stearns & Co., 912 F.2d 1918 (11th Cir. 1990), holds that a notice provision in an arbitration clause that can be attributed to then existing 15c2-2d of the Securities Exchange Act (which preserved the customer's right to pursue federal securities claims in Federal Court) is still enforceable, as the particular provision "unmistakably states that federal securities claims are not included within the scope of the (arbitration) agreement." ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

"Mandatory Mediation and Summary Jury Trial: Guidelines for Ensuring Fair and Effective Processes" Harvard Law Review March, 1990 V.103 N.5 pp. 1086-1104 This article argues that Congress and State Legislatures should enact statutes enabling courts to mandate ADR more frequently in light of the judicial confusion and underuse of ADR. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GENERAL/ COURT REFORM/ LEGISLATION

"Mass. Court Tries Conciliation" Alternatives to the High Cost of Litigation December, 1990 V.8 N.12 p. 194 This article describes a recent conciliation program launched by the Essex (Mass.) Superior

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Court. Contracts, zoning, and other civil cases which have been on the docket over 12 months are assigned to the program where local attorneys volunteer to serve as conciliators and parties are ordered to attend.

MED: IND ATTY REVIEW/ NON-BINDING RECOMMENDATION
PROC- EARLY NEUTRAL EVAL/ SUBJ MATTER: GENERAL/ 3RD
PARTY: VOLUNTEER OF LAY PERSONS/ SETTLEMENT:
PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR
RULES/ COURT REFORM

"Mass. Plans to Institutionalize Mediation In Superfund Area" Alternatives to the High Cost of Litigation May, 1990 V.8 N.5 p. 74 This article summarizes the successful mediation program used in the Lowell, Mass. waste site dispute which the state and Department of Environmental Protection plan to implement in future disputes. MED: OPENING AND SETTING GUIDELINES/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: TOXIC TORTS/ CONFIDENTIALITY/ ECONOMIC ADVANTAGES OF ADR

"Master In N.Y. Asbestos Cases" Alternatives to the High Costs of Litigation April, 1990 V.8 N.4 p. 58 This article exposes the reasoning of the federal and state judge who jointly appointed the special settlement Master, including ripeness of cases, expertise of counsel, and overload of dockets. SUBJ MATTER: TOXIC TORTS/ 3RD PARTY: SELECTION/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM

"Mediation and Criminal Justice." (book review) American Journal of Criminal Law March 22, 1990 - Spring V.17 N.3 pp. 339(1) This article is a book review of Mediation and Criminal Justice. The book looks at the ethical and philosophical basis for mediation, practical realities of mediation, and the desirable characteristics of existing mediation models. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: CRIMINAL/ TYPE OF SOURCE: BOOK REVIEW

"Mediation of Civil Cases: Neither Panacea Nor Anathema" (A Prescription for Changes in Procedural Rules) University of Detroit Law Review June 22, 1990 - Summer V.67 N.4 pp. 531-580 An analysis of alternative methods of dispute resolution aimed at facilitating

attorney negotiation in encouraging the prompt and fair resolution of cases. The author contends that expectations relating to the putative benefits of these programs have been inflated. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: NEGOTIATED RULE-MAKING/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS/ JUDICIAL PARTICIPATION

"Minitrial Resolves Major Federal Gas Case; Shows Value of 'Private' Procedure in Court" Alternatives to the High Cost of Litigation May, 1990 V.8 N.5 p. 75 The use of cooperative discovery and an in-court non-binding minitrial help resolve a multimillion dollar contract dispute, reducing both the time and money spent reaching a resolution. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ AGREEMENT ON PROCEDURE/ COURT REFORM

"NASD Arbitrators Tell Shearson to Pay Over \$1 Million for Unauthorized Trading" Tax Management Financial Planning Journal April 3, 1990 V.6 N.7 pp. 141(2) This article discusses the National Association of Securities Dealers arbitration panel award in In Re the Arbitration Between Cox and Shearson Lehman Hutton. At over one million dollars, it is the third largest award granted by NASD. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES

"New Approach to Engineering and Construction Problems." (Australia) Law Institute Journal May, 1990 V.64 N.5 pp. 410-412 This article explains New South Wales' ADR system of handling technical engineering construction contract disputes, referral of the technical aspects to a referee, and referral to a court for resolution of the legal issues. MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ COMPARISONS: CROSS-CULTURAL/ COURT REFORM

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"Plaintiff Entitled to Court Decision on Validity of Its Arbitration Clause" Tax Management Financial Planning Journal October 16, 1990 V.6 N.21 pp. 433(2) The Sixth Circuit ruled that a district court should first determine the validity of an arbitration clause where the plaintiff credit union has alleged that the contract and arbitration clause contained therein were fraudulently procured. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

"Rules Changed to Make Written Findings Easier to Obtain in Larger Arbitrations" Tax Management Financial Planning Journal August 21, 1990 V.6 N.17 pp. 358-359 Representatives to the Securities Industry Conference on Arbitration have agreed to make it easier for parties to obtain written findings of fact and conclusions of law by modifying their uniform informational pamphlets that explain the procedures for arbitration proceedings. Since these will not be implemented as rule changes approval of the SEC will not be necessary. ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE

"SEC Okays NASD Proposal to Raise Fees to Discourage Arbitration Adjournments" Tax Management Financial Planning Journal July 24, 1990 V.6 N.15 pp. 320(2) The SEC's approval of NASD increase in fees for multiple adjournments of arbitration hearings is based on the NASD discovery that such adjournments are the single most significant cause of delays in arbitration resolution. Other members of SICA are expected to propose similar rules. ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

"SEC Staff Asks Markets to Mandate Use of Non-SRO Arbitration Forums" Tax Management Financial Planning Journal July 24, 1990 V.6 N.15 pp. 319(1) The SEC's urging of the security industry to mandate customers' rights to non-industry arbitration forums such as the American Arbitration Association is based on the problem of the NASD and NYSE shouldering an unfair portion of arbitration costs and expected benefits from increased competition between arbitration forums. ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES

"Securities Dispute Returned to Arbitrators." (Pennsylvania)
Pennsylvania Law Journal-Reporter July 16, 1990 V.13 N.28 p.11
This article focuses on the decision of a 3rd circuit panel, which holds that a District Court overstepped its authority by reassigning a lawsuit scheduled for arbitration to its trial calendar without the presence of bad faith by one of the parties. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: CLIENT REP/ INST NATURE: GOV'T ENTITIES

"SIA Calls For Single Agency to Administer Arbitration System" Tax Management Financial Planning Journal February 6, 1990 V.6 N.3 pp. 83(1) This article discusses the Securities Industry Association's push for continued improvement in its dispute resolution process. This push includes a single agency to administer its arbitration system and a larger, more knowledgeable pool of arbitrators. ARB: BINDING ARB-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES

"SIA Sues to Block Florida Law Requiring Non-Industry Arbitration Forum Choice" Tax Management Financial Planning Journal October 16, 1990 V.6 N.21 pp. 432(1) The article reports on the efforts of the Securities Industry Association (SIA) to challenge a Florida law which requires securities firms to offer customers the option of non-industry forums for arbitration of disputes. ARB: BINDING ARB- GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ORGANIZATION POLICIES AND RULES

"Significant 1989 Court Decision" (Federal Securities Regulation)
Business Lawyer May, 1990 V.45 N.3 pp. 1286 This article discusses a number of U.S. Supreme Court cases and their effects on arbitration, focusing on Rodriguez De Quijas v. Shearson/American Express, which provides that investors may be compelled to arbitrate claims under Sec. 12(2) of the Securities Act due to predispute arbitration agreements; and Gulfstream Aerospace Corp. v. Mayacamas Corp., which limited the appealability of arbitrated cases on equitable grounds . ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: GENERAL/ AGREEMENT ON PROCEDURE

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"Soviets Push 'Multi-Step' ADR in Int'l Cases" Alternatives to the High Cost of Litigation January, 1990 V.8 N.1 p. 6 The report notes the Soviets recent call for multiple ADR steps to be implemented by the World Court in resolving international disputes between nations. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: GOV'T

"State and Local Government Bargaining" The Labor Lawyer June 22, 1990 - Summer V.6 N.3 pp. 708-785 A report by a Committee on State and local government bargaining, discussing primary cases governing several areas of bargaining. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

"State Court Rules on Mandatory Mediation" Alternatives to the High Cost of Litigation March, 1990 V.8 N.3 p. 43 The Iowa Supreme Court, in the case of Graham v. Henry, ruled that in the area of compulsory court ADR for farmer-creditor loan disputes the mere presence at the mediation was enough to satisfy requirements to obtain a mediation release. MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ JUDICIAL PARTICIPATION

"State Courts Scrutinize SJT in Cleveland, its Birthplace" Alternatives to the High Cost of Litigation August, 1990 V.8 N.8 p. 122 The Summary Jury Trial, recently used for the first time in a Cleveland state court, is receiving much acclaim for its many advantages: reducing costs and service time for jurors; potentially lowering insurance premiums; and when using two summary jury trial juries, increasing chances of settlements by providing two objective views to parties. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SETTLEMENT: PRESSURES TO SETTLE/ JUDICIAL PARTICIPATION

"Supreme Court Declines to Review Case on Lump-sum Arbitration Award" Tax Management Financial Planning Journal May 29, 1990 V.6 N.11 pp. 234(1) A summary of Sargent v. Paine-Webber Inc., which held that a lump sum arbitration award may not be remanded for an explanation absent facts indicating that the arbitrators acted in manifest disregard of the law. In addition, the article discusses the arguments on

the certiorari petition, and the fact that the Supreme Court refused to take the case.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: SECURITIES/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COURT REFORM/ JUDICIAL PARTICIPATION

"Taking the Trauma Out of Custody Cases" McCall's April, 1990 V.117 p. 27 This brief article highlights The Justice Center in Atlanta as one of the most comprehensive conflict resolution centers in the nation. The center was established in 1979, offers free mediation to those who need it, settles more than 3,000 cases annually, and boasts a 70% success rate.

MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: FAMILY (DOMESTIC REL)

"The MAI Program" East Asian Executive Reports July 15, 1990 V.12 N.7 pp. 22(3) This article describes the implementation of the Multilateral Assistance Initiative in the Philippines, which was developed to create a more attractive environment for foreign investors. SUBJ MATTER: INT'L

"U.S. Push for Contracts ADR" Alternatives to the High Cost of Litigation March, 1990 V.8 N.3 p. 38 The Administrative Conference of the United States (ACUS), a prestigious federal advisory agency, has strongly recommended greater use of ADR very early in the life of thousands of disputes that arise between government and its private contractors in a document titled, "Contracting Officers' Management of Disputes." MED: PUBLIC POLICY DIALOGUE/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T CONTRACTS

"Unions and Pensions: Achievements of the 80s and Aims for the 90s." (Great Britain) IRS Employment Trends March 6, 1990 V.459 p. 8(4) This article is a review of key union policies and achievements, especially in the area of pensions. The review includes the findings of a survey of large labor unions regarding concerns and objectives for the future, such as the elimination of discrimination, stronger representation

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and bargaining rights, and protecting the rights of members in the event of investment or reorganization. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL

"World Arbitration Reporter, vol. 2, National Legislation." (book review) New York University Journal of International Law and Politics July, 1990 - Winter V.20 N.2 pp. 601-602 This volume, within a multi-volume set, examines arbitration legislation of 33 nations. The editors of the work seek to increase the number of nations covered, and examine arbitration decisions in different nations. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Aarsvold, Patricia "L.A. Bar's Programs Illustrate a Range of Options" The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 520 The article explains Dispute Resolution Services, Inc. (DSR), a service created by the L.A. County Bar Association that was designed to deal with a wide variety of areas using mediators in dispute resolution. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS

Aarsvold, Patricia "Attorneys Ill-Informed on Arbitration Process" (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 59 Although arbitration has been noted for its potential ability to decrease the congestion of civil courts, many attorneys are uninformed about the advantages and procedures of the arbitration process. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ CONFIDENTIALITY/ ECONOMIC ADVANTAGES OF ADR

Aarsvold, Patricia "Mediation is Extension of Negotiating Process" (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 516 The author contends that mediation is actually an extension of negotiation and discusses when parties will use it to settle a dispute. NEG: TACTICS,

STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED
PROCESSES-GENERAL/ MED: CAUCUSING

Abbott, Kenneth W. "International Trade - National Treatment - Application of GATT to Quasi-Judicial Procedures - Exception for Necessary Enforcement Measures" American Journal of International Law January, 1990 V.84 N.1 pp. 274-280 An examination of the treatment of the GATT panel findings on Section 337 of the United States Tariff Act of 1930 regarding the protection of intellectual property.
INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ LEGISLATION

Abraham, Cecil "Malaysia." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 297-306 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin; this article provides a synopsis of maritime arbitration in Malaysia, and includes a brief discussion of the potential role Malaysia will play in future maritime arbitration disputes given the location there of the Regional Centre for Arbitration. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Abrams, Roger I.; Nolan, Dennis R. "AIDS in Labor Arbitration" University of San Francisco Law Review September 22, 1990 - Fall V.25 N.1 pp. 67-91 This article discusses potential AIDS-related grievances and principles used by labor arbitrators in areas of disability law, insurance, testing and consumer relations. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL

Adams Mastrofski, Jennifer "Mediation in Court - Based Systems: More Variations than Similarities" Negotiation Journal July, 1990 V.6 N.3 p. 257 Contrary to the theory that mediation in government is similar to private sector mediation and that the strategies are therefore closely related, the author notes that case studies in Pennsylvania indicate that not only does court-based mediation differ greatly from private sector mediation in terms of process, but also between courts themselves. Her study suggests that environmental differences such as policies and professional standards should shape the strategies to be used. MED:

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GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH
REPORT/ JUDICIAL PARTICIPATION

Adler, Peter S. "Casting Sunshine on Negotiated Settlements"
Negotiation Journal October, 1990 V.6 N.4 pp. 305-308 The
author proposes that statutes or court rules requiring all civil settlements to
be disclosed would provide guidance for other settlement negotiations and
increase the efficiency of the courts as dispute resolution systems.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ COURT
REFORM

Allen, A. Dale, Jr. "What Constitutes Drug Possession: Arbitration Case
Histories and Guidelines" Employee Relations Law Journal December
2, 1990 - Winter V.16 N.3 pp. 359-367 This article explores
selected arbitration decisions in which the issue of what constitutes drug
possession is determined through the eyes of labor arbitrators. The article
sets up guidelines for employers to follow which are common threads
running through those arbitration decisions. ARB: BINDING ARB-
GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ
MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ ORGANIZATION POLICIES AND
RULES

Allison, John R. "The Context, Properties, and Constitutionality of
Nonconsensual Arbitration: A Study of Four Systems" Journal of Dispute
Resolution January, 1990 V.1990 N.1 pp. 1-101 A comparative
analysis of FIFRA data compensation arbitration, court-annexed
arbitration, multi-employer pension plan withdrawal liability arbitration,
and community futures broker-customer arbitration: the article found that
the constitutional arguments to court-annexed arbitration were resolved
with trial de novo options. ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ ARB: MANDATORY,
COURT-ANNEXED- TRIAL DE NOVO/ ARB: BINDING ARB-
GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE
SYSTEM- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ
MATTER: CONSUMER/ SUBJ MATTER: GOV'T/ SUBJ MATTER:
REGULATORY

Alvarez, Henri C. "The Law and Practice of Commercial Arbitration in England", 2d ed. (book review) University of British Columbia Law Review January, 1990 - Winter V.24 N.1 pp. 141-143 This article presents a review of the Second Edition of The Law and Practice of Commercial Arbitrations in England. The reviewer concludes that the book's analytical approach of showing the relationship between arbitration and courts will be useful to English and Canadian practitioners alike because of the influence of English jurisprudence and statutes on Canadian Law. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Anand, Pravin "Arbitration in the Context of Technology Transfer Agreements: The Case of India" Journal of International Arbitration June, 1990 V.7 N.2 pp. 87-91 The author describes practical problems of technology disputes in India and provides practical guidelines for a solution. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION

Ancel, Bertrand "The 'Tronc Commun' Doctrine: Logics and Experience in International Arbitration" Journal of International Arbitration September, 1990 V.7 N.3 pp. 65-72 The author discusses the effect of the Tronc Commun Doctrine, essentially a conflict of laws resolution, on international arbitration. SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Anderson, Charles-Edward "The Gag is Removed; Clients May Disclose Grievances Filed Against Florida Lawyers" ABA Journal June, 1990 V.76 pp. 22(2) A discussion of the Florida Supreme Court's recent abolishment of a rule which prohibited clients from disclosing the contents of grievances they had filed against Florida attorneys. SUBJ MATTER: OTHER PROF MALPRACTICE/ ETHICS: GENERAL

Anstead, Harry Lee "Mediation on Appeal; Early Results From the Fourth DCA's Experiment are Encouraging" Florida Bar Journal January, 1990 V.64 N.1 pp. 31-33 An evaluation of the 4th District Court of Appeal's program for mandatory settlement conferences as a prerequisite to civil appeals, including its effect upon the Florida dockets. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED:

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Applegate, Carol "When Collective Bargaining First Came to Education: A Teacher's Viewpoint" Government Union Review June, 1990 - Winter V.5 N.1 pp. 6-13 One teacher discusses the difficulties of introducing collective bargaining techniques to the education field. NEG: USE OF AGENTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TEACHING

Arkin, Harry "New Opportunities for Arbitration in East/West Trade" The Transnational Lawyer September 22, 1990 - Fall V.3 N.2 pp. 495-520 The author analyzes the current state of international arbitration, including new concepts in East/West arbitration. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR

Arul, C. "Singapore" (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 343-345 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a synopsis of maritime arbitration in Singapore, which compares Singapore and British laws, the enabling arbitration statutes, and procedures, awards and enforcement of arbitral judgments. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Asberry, Brian K. "When Your Law Firm Wants a Divorce: Mediating the Dissolution of Law Firms" Journal of Dispute Resolution 1990 V.1990 N.2 pp. 387-400 The author examines the use of ADR in law firm dissolutions and concludes that it is accomplishing its goals of providing a cost-effective, amenable dissolution and exposing attorneys to ADR in the hope that the attorneys will use ADR in other matters. SUBJ MATTER: CORPORATE/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ ROLE OF LAWYERS

Assefa, Hizkias "Conflict Resolution Perspectives on Civil Wars in the Horn of Africa" Negotiation Journal April, 1990 V.6 N.2 pp. 173-183 Assefa discusses the need for the use of negotiation techniques, particularly focusing on interest level negotiation and third party neutrals, in the civil wars of the Horn of Africa, and stresses some obstacles to beginning this process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: INT'L/ 3RD PARTY: SELECTION

Auerbach, Simon Legislating for Conflict This book examines the changes that occurred in industrial-conflict law in Great Britain during the 1980s, asserting that there was a great range and sophistication of influences that determined industrial-conflict law during the decade. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ LEGISLATION

Augustine, Patrick B. "Loan Documentation Clauses to Avoid Lender Liability" (Colorado) Colorado Lawyer November, 1990 V.19 N.11 pp. 2225(4) This article discusses provisions which lenders may include in agreements with borrowers that limit the risk of lender liability claims. These provisions include waiver of jury trial, arbitration clauses, limits on forum, and choice of law. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES

Avruch, Kevin; Black, Peter W. "Ideas of Human Nature in Contemporary Conflict Resolution Theory" Negotiation Journal July, 1990 V.6 N.3 pp. 221-228 The authors analyze two books dealing with the relationship between human nature and conflict resolution, and discuss the ultimate role of culture in ADR. SUBJ MATTER: COMMUNITY/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: CROSS-CULTURAL

Badami, Scott M. "Constitutionally Recognizing Court Mandated Arbitration: Paradise Found or Problems Abound?" Journal of Dispute

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Resolution January, 1990 V.1990 N.1 pp. 179-187 This note supports the Colorado Mandatory Arbitration Act, which was a pilot program providing for mandatory arbitration in civil matters where money damages of \$50,000 or less are sought. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE/ COURT REFORM

Bain, Robert M. "Bridging the Procedural Gap: Arbitration Decisions as a Basis for Collateral Estoppel" Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 189-199 This note explores recent federal caselaw which gives arbitration decisions collateral estoppel effect. The author discusses differences between courtroom litigation and arbitration proceedings, and how collateral estoppel comes into play. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ ISSUE & CLAIM PRECLUSIVE EFFECTS

Bakaly, Charles G., Jr. "Alternative Dispute Resolution of Employer-Employee Disputes in a Non-union Setting" Arbitration Journal September, 1990 V.45 N.3 pp. 47-49 This article discusses the employer benefits that can result from the use of ADR in employment disputes in a non-union organization. The author suggests that the use of ADR will help reduce costs and/or allow the employer to become better informed regarding decisions to litigate. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NEG: PSYCH CONSIDERATIONS/ ARB: PRIVATE JUDGING/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES/ PROVISIONAL REMEDIES

Baker, Stewart A.; Davis, Mark D. "Arbitral Proceedings Under the UNCITRAL Rules - The Experience of the Iran-United States Claims Tribunal" George Washington Journal of International Law and Economics July, 1990 - Winter V.23 N.2 pp. 267-347 The authors examine articles 15-30 of the United Nations Commission on International Trade Law Arbitration Rules (UNCITRAL Rules), as adopted and applied in the Iran-United States Claims Tribunal arbitration process, arguing that the Rules served the arbitrating parties well. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS,

STRATEGIES AND TECHNIQUES- PREP/ ARB: MANDATORY,
COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB-
GENERAL/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE:
GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:
GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT

Barken, Marlene E. "Integrating Contract and Property Fundamentals with Negotiation Skills: A Teaching Methodology" The Journal of Legal Studies Education September 22, 1990 - Fall V.9 N.1 pp. 73-84
The author describes a project she developed whereby business law students actually negotiate a purchase agreement for residential real estate, thereby facilitating their understanding of how contract and property concepts relate and sharpening their negotiation skills. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: EDUCATION/ TEACHING

Barnes, Gregory L. "Consumers Swallow Another Lemon: Agency Consent Order Preemption of State 'Lemon Law' Standards for Informal Dispute Resolution" Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 163-177 This article criticizes the Supreme Court's opinion in General Motors v. Abrams, which held that a Federal Trade Commission consent order overruled the New York state "Lemon Law", and predicts continued erosion of the independence of federal regulatory agencies as related to the industries they regulate. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: REGULATORY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

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Baskin, Deborah R.; Sommers, Ira "Ideology and Discourse: Some Differences Between State-Planned and Community-Based Justice" Law and Human Behavior June, 1990 V.14 N.3 pp. 249-268 The author compares state-planned models of mediation with community based methods of mediation and concludes that these models and methods are often not seen as distinct entities but rather as on a continuum with formal judicial resolution. MED: PUBLIC POLICY DIALOGUE/ MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE

Baxter, Ian F. G. "International Business Disputes" (Part 3) International and Comparative Law Quarterly April, 1990 V.39 N.2 pp. 288-299 The author asserts that the two "streams" of process for resolution of international business disputes - litigation and arbitration - need to be brought closer together. Since choices between the two usually are agreed to before the dispute arises, those involved may subsequently find the other process more suitable. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SELECTION OF APPROPRIATE PROCESS

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NON-BINDING ARB/ TYPE OF SOURCE: CASE
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Bello, Judith H.; Holmer, Alan F. "Settling Disputes in the GATT: The Past, Present, and Future" (U.S. Trade Law and Policy Series No. 16) International Lawyer June 22, 1990 - Summer V.24 N.2 pp. 519-533 The article discusses and outlines the General Agreement on Tariffs and Trade (GATT) dispute settlement process which indicates a current trend towards enforcement of existing rules and continuing negotiations toward the improvement of dispute settlement procedures.

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SUBJ MATTER: CORPORATE/ SUBJ MATTER: GOV'T/ SUBJ
MATTER: INT'L/ REQUIREMENTS: STATUTORY OR RULES/
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Bemmels, Brian "Gender Effects in Grievance Arbitration" Industrial Relations November 16, 1990 - Fall V.29 N.3 pp. 513-525 This study shows that while male arbitrators were much more likely to sustain the grievances of a female than a male, there is no evidence that female arbitrators treat grievants of different sexes differently. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: LABOR-DISCRIMINATION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS

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V.134 N.5 pp. 126(4) This article analyzes the effectiveness of England's Arbitration Act of 1979 and concludes that it lessens the superior court's interference in the arbitration process. INST
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SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ROLE OF LAWYERS

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Bernstein, Aaron "The Baseball Owners Get Beaned" Business Week October 15, 1990 V.3182 p. 122 Discussion of baseball club owners being hit with fines in an arbitration decision for collusion and violation of labor contracts of players in an attempt to control player salaries. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ POWER IMBALANCE

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Brand, Ronald A. "Private Parties and GATT Dispute Resolution: Implications of the Panel Report on Section 337 of the US Tariff Act of 1930" Journal of World Trade April, 1990 V.24 N.3 pp. 5-30 This article presents a case for a strengthened dispute settlement system for the development of the GATT's substantive rules by analyzing the Section 337 report and suggesting court and government reforms. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ COURT REFORM

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MED: PRETRIAL CONF/ MED: REP OF A CLIENT DURING
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NEUTRAL EVAL/ RELATION TO ONGOING LITIGATION/ ROLE
OF LAWYERS

Brickman, Lester "Attorney-Client Fee Arbitration: A Dissenting View"
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277-307 The author calls in to question the general acceptance of settling
attorney-client fee disputes through arbitration and argues instead that the
arbitration process and consequent judicial review need revision to allow
the client to assert his/her fiduciary rights. ARB: JUDICIAL REVIEW/
COURT REFORM/ ETHICS: GENERAL/ ROLE OF LAWYERS

Brierley, John E.C. "The Law and Practice of Commercial Arbitration
in England", 2d ed. (book review) Canadian Bar Review March, 1990
V.69 N.1 pp. 185-190 This article is a book review of a treatise on
the topic of commercial arbitration. The review focuses on what the
reviewer considers to be the book's major strength, that being its treatment
of the theoretical basis of English arbitration law. ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING
ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ TYPE OF
SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/
COMPARISONS: HISTORICAL

Briggs, Steven "Arbitral Life Cycles and Acceptability to the Parties"
Journal of Collective Negotiations in the Public Sector June 22, 1990 -
Summer V.19 N.3 pp. 189-195 The article proposes that
acceptability as an arbitrator is not based on luck and that arbitrators
should adjust their acceptability strategies based upon their presence in one
of the following three "life-cycles": a) early stages of the arbitrator's
career in which the arbitrator is building caseload, b) the middle stage, in
which the arbitrator has a modest caseload and, c) the advanced stage, in
which the arbitrator has a heavy caseload and may even remove his or her
name from some consideration lists. NON-BINDING
RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB:
SELECTION OF ARBITRATOR/ ARB: TRAINING AND
QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ ARB:
SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ SUBJ
MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT
(NON-UNIONS)

Briggs, Steven; Koys, Daniel "An Empirical Investigation of Public Sector Mediator Effectiveness" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 121-128 The study samples thirty-three mediators in state agencies to explore what skills enhance the mediator's abilities. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: GOV'T/ ECONOMIC ADVANTAGES OF ADR

Brittin, Alexander J. "Alternative Dispute Resolution in Government Contract Appeals" Public Contract Law Journal January, 1990 - Winter V.19 N.2 pp. 210-232 This article looks at the current situation of alternative dispute resolution in government contracts, the techniques employed, and then suggests methods for improvement. NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/ REQUIREMENTS: STATUTORY OR RULES

Brown, Laura F. Grievance Mediation: A Bibliography This pamphlet is a forty-four source bibliography with a brief introduction to grievance mediation. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: BIBLIOGRAPHY

Brown, Ronald C. "Labor Arbitration: A Practical Guide for Advocates" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 153-160 In this review of the book Labor Arbitration: A Practical Guide for Advocates, the author finds the book to be a general yet thorough introduction to the labor arbitration process and commends it for providing much useful and useable information. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Brown, William J. I.; Houck, Stephen D. "Arbitrating International Antitrust Disputes" Journal of International Arbitration March, 1990 V.7 N.1 pp. 77-90 This article discusses the issues and reasoning behind the growing acceptance of binding arbitration as a method for settling international antitrust disputes. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ SUBJ MATTER: INT'L

Brunel, Andre J. "A Proposal to Adopt UNCITRAL's Model Law on International Commercial Arbitration as Federal Law" Texas International Law Journal December 22, 1990 - Winter V.25 N.1 pp. 43-69 This article promotes the federal adoption of the UNCITRAL Model Law on International Commercial Arbitration by discussing the deficiencies of the Federal Arbitration Act (FAA) and the relative benefits of the Model Law. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM

Brutsche, Steve "Mediation: Cross-Examined" Texas Bar Journal June, 1990 V.53 N.6 pp. 580(5) This article offers an overview of the mediation process, including its cost, risks, rules and a common mediation order. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ 3RD PARTY: SELECTION/ REQUIREMENTS: MANDATE TO USE/ CONFIDENTIALITY

Bryce, Martin C., Jr. "Rizzo v. Haines: An Attorney's Duty to Exercise Ordinary Skill and Knowledge in the Conduct of Settlement Negotiations" Villanova Law Review April, 1990 V.35 N.2 pp. 435-456 This article presents an analysis of the Pennsylvania Supreme Court's holding in Rizzo v. Haines that an attorney's failure to investigate or communicate a settlement offer subjects him to legal malpractice. The author suggests that such liability should also exist for unreasonably increasing a settlement demand. NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: GENERAL/ SUBJ MATTER: OTHER PROF MALPRACTICE/ 3RD PARTY: LIABILITY & IMMUNITY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ ROLE OF LAWYERS

Buckner, E.L. "Out-Of-Court Adjustments - An Alternative to Bankruptcy" Colorado Lawyer May, 1990 V.19 N.5 pp. 839(3) This article describes and discusses the advantages and disadvantages of the adjustment process for avoiding bankruptcy whereby the National Association of Credit Management works with creditors and debtors to reach voluntary reorganization or liquidation which may become legally binding on the parties involved. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ INST NATURE: JUSTICE SYSTEM-OTHER/ SETTLEMENT: ENFORCEMENT OF

SETTLEMENT OR AWARD/ ECONOMIC ADVANTAGES OF ADR/
ORGANIZATION POLICIES AND RULES/ SELECTION OF
APPROPRIATE PROCESS/ SUBJ MATTER: COMMERCIAL

Burkhardt, Donald A.; Conover, Frederic K., II "The Ethical Duty to Consider Alternatives to Litigation" Colorado Lawyer February, 1990 V.19 N.2 pp. 249(4) The reluctance of lawyers to consider alternatives to litigation has contributed to the limited use of ADR methods. As set forth by the Colorado Code of Professional Responsibility, this reluctance is a violation of the attorneys' duties to represent their clients zealously and for their best interests. SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ETHICS: GENERAL

Burman, Sandra; Schart, Wilfried "Creating People's Justice: Street Committees and People's Courts in a South African City" Law & Society Review August, 1990 V.24 N.3 pp. 693-744 An in depth discussion of the historical and contemporary basis for informal judicial processes popular in the African townships of South Africa, concentrating on the trends and methodologies of such systems. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: GENERAL/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

Burns, Robert E. "The Evolving Role of Dispute Resolution in Administrative Procedures" (Administrative Law and Practice) Natural Resources & Environment September 22, 1990 - Fall V.5 N.2 pp. 26(5) This article explores and details the increasing use of ADR in the administrative agency context, particularly with respect to state public utilities commissions. NON-BINDING RECOMMENDATION PROC-GENERAL/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: PUBLIC UTILITIES

Burr, Charles B., II "Common Sense Settlement Negotiation: The Art of Winning Without Trial" For the Defense February, 1990 V.32 N.2 pp. 7-10 This article offers some suggestions as to when and how a lawyer should settle a personal injury case. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: OTHER TORTS

Burstein, James A.; Mapes-Riordan, Lynne D. "The Arbitrability of Age Discrimination Claims: A Split in the Circuits" Employee Relations Law Journal September 22, 1990 - Autumn V.16 N.2 pp. 139-156 This article examines two contrary lines of cases on the issue of whether a private agreement between an employer and an individual employee compelling arbitration of all claims arising out of employment can displace the right to a judicial forum under the Age Discrimination in Employment Act of 1967. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Button, Kenneth R. "Subsidization of State-Trading Enterprise Production of Mineral Products: An Assessment of Possible Revisions to the GATT Articles and Subsidies Code in the Uruguay Round of Trade Negotiations" North Carolina Journal of International Law and Commercial Regulation March 22, 1990 - Spring V.15 N.2 pp. 337-353 The author contends there is a high priority need for changes to GATT articles in order to achieve discipline due to trade distortion because of government subsidies of the production and sale of minerals. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE

Byrne, Robert E.; Woodward, James G.; Lapinski, John J. "Court-Annexed Mandatory Arbitration Practice and Procedure in Illinois" CBA Record May, 1990 V.4 N.5 pp. 14(7) This article provides a concise overview of the recently established mandatory non-binding, court-annexed arbitration for low damage civil cases in Illinois. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- SMALL CLAIMS COURTS/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ JUDICIAL PARTICIPATION

Canal-Forgues, Eric; Ostrihansky, Rudolf "New Developments in the GATT Dispute Settlement Procedures" Journal of World Trade April, 1990 V.24 N.2 pp. 67-89 The article comments on improved GATT dispute settlement techniques developed in the Uruguay Round of trade negotiations, and examines the progressive effects of jurisprudential thinking on world trade law. NEG: W/ OR W/O ASSIST OF 3D

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PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF
3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES
AND TECHNIQUES- COOP TECHNIQUES/ SUBJ MATTER: INT'L/
AGREEMENT ON PROCEDURE

Cappelli, Peter; Mitchell, Daniel J.B.; Ready, Kathryn J. "Is Pattern Bargaining Dead? A Discussion" Industrial and Labor Relations Review October, 1990 V.44 N.1 pp. 152-165 Cappelli and Mitchell criticize Kathryn Ready's study which concludes that pattern bargaining was strengthened from 1977-83 and serves as a fundamental feature of contemporary collective bargaining; Ready's reply reaffirms her study's results. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ POWER IMBALANCE

Carbonneau, Thomas E. "Arbitration and the U.S. Supreme Court: A Plea for Statutory Reform" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 231-275 The author argues for preservation of arbitration as an aspect of dispute resolution, attributing significance to legislative and common law developments which rehabilitated arbitration in American law, but cautions that judicial liberality in the utilization of arbitration threatens to restrict the basic rights of litigants and that such liberality should be legislatively corrected or arbitration's usefulness will be diminished. ARB: BINDING ARB-GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ COMPARISONS: HISTORICAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ LEGISLATION

Carey, Jana Howard "Checklist for Counseling the Corporate Defendant in an Employment Lawsuit" The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 73-85 The author gives questions to ask a new client in their first meeting that may prevent future problems. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ROLE OF LAWYERS

Caron, David D. "The Nature of the Iran-United States Claims Tribunal and the Evolving Structure of International Dispute Resolution" American Journal of International Law January, 1990 V.84 N.1 pp. 104-156 This article looks at the Iran-United States Claims Tribunal as a

possible model arbitral body in terms of the precedential value of such tribunals' decisions in the area of international law and dispute resolution. The article specifically discusses interstate and international commercial arbitration.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: INT'L

Caron, Martha Louise "Arbitration of Real Estate Disputes" Los Angeles Lawyer January, 1990 V.12 N.10 pp. 33-36 While the author holds that arbitration can be an effective alternative for real estate disputes; she argues that problems persist in the areas of the standard CAR clause, third party participation and enforceability. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ JUDICIAL PARTICIPATION/ LEGISLATION

Carper, Donald L., Buntz, C. Gregory "Alternative Dispute Resolution and the Business Laws/Legal Environment Curriculum" Journal of Legal Studies Education V.9 In this article, the authors call for the inclusion of ADR and conflict management in the business law/legal environment course and assert that this inclusion could produce more sophisticated businesspersons and citizens who rely less on litigation as the sole method of problem solving. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ TEACHING

Carrizosa, Philip "Panel Urges Controls on Private Judges; Committee Rejects Call to Eliminate Growing System; Report Called 'Whitewash'" The Los Angeles Daily Journal August 27, 1990 V.103 N.170 pp. 1(6) An Advisory Committee to the Judicial Council refused to call for an end to the private judge system, despite complaints that a two-tiered justice system was developing in California. The panel did urge the legislation to clarify the rules and procedures for private judging. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM-OTHER/ JUDICIAL PARTICIPATION/ QUALITY CONTROL

Carter, James H. "International Commercial Arbitration" (representation by lawyers not admitted to practice in jurisdiction where arbitration takes place) (American Bar Association Section of International Law and Practice: Reports to the House of Delegates) International Lawyer June 22, 1990 - Summer V.24 N.2 pp. 599-605 The author explores issues relating to the representation of parties in international commercial arbitration, focusing on the desirability of allowing non-local lawyers to be involved in the formal arbitration process. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: CLIENT REP/ SUBJ MATTER: COMMERCIAL

Carty, Sean M. "Securities - Validity of Arbitration Agreements - Section 14 of the Securities Act of 1933 Does Not Invalidate Arbitration as an Alternative Forum for Settling Disputes that Come Under The Act" University of Detroit Law Review March 22, 1990 - Spring V.67 N.3 pp. 365-474 Although Congress' intent is unclear, the Supreme Court has recognized arbitration as an adequate method to resolve disputes arising under the Securities Act and the Securities Exchange Act. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: STATUTORY OR RULES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ LEGISLATION

Cataland, Louis S. "Binding Arbitration and the Nondelegation Doctrine: Does Ohio's Collective Bargaining Act Unconstitutionally Delegate Legislative Authority to Administratively Appointed Arbitrators?" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 83-104 In this comment, the author develops the delegation question raised by Ohio's Public Employees' Collective Bargaining Act, and after applying various constitutional determinants, concludes that the binding arbitration arrangement in the Ohio statute is a reasonable attempt to resolve bargaining impasses involving safety forces. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: REGULATORY/ LEGISLATION

Chiu, Julie C. "Consolidation of Arbitral Proceedings and International Commercial Arbitration" Journal of International Arbitration June, 1990 V.7 N.2 pp. 53-76 A discussion of court-ordered consolidation of arbitration proceedings in both domestic and international settings.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING
AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ REQUIREMENTS:
CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/
COURT REFORM

Christian, Charles "The Bar and ADR" Solicitors Journal September
22, 1990 V.134 N.41 pp. 1146(1) A review of a report by the
London Common Law and Commercial Bar Association favoring
alternative dispute resolution (ADR) over costly litigation of personal
injury cases. MED: RELATED PROCESSES-GENERAL/
NON-BINDING RECOMMENDATION PROC- GENERAL/
NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/
ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CORPORATE/
SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ TYPE
OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS:
CROSS-CULTURAL/ ECONOMIC ADVANTAGES OF ADR

Cohen, Isaac "Political Climate and Two Airline Strikes: Century Air in
1932 and Continental Airlines in 1983-85" Industrial and Labor Relations
Review January, 1990 V.43 N.2 pp. 308-323 The author
compares two airline strikes, the major aspects of which were identical but
whose outcomes were different; the conclusion is that the difference was
in the political climate of the time. SUBJ MATTER: CORPORATE/
SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: REGULATORY/
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
COMPARISONS: HISTORICAL

Cohen, Meredith J. "Arbitration of Family Law Cases in the 1990's - Is
It Faster, Less Expensive, and Better for the Public?" Florida Bar
Journal February, 1990 V.64 N.2 pp. 38-40 The author argues for
the Florida Bar to take steps to ensure that arbitrators will be competent
and experienced family law practitioners who will seek a fair result in
divorce arbitration. NON-BINDING RECOMMENDATION PROC-
GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION
OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF
ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL
REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/
CONFIDENTIALITY/ POWER IMBALANCE/ ROLE OF LAWYERS/
TEACHING

Colon, Robert J. "Job Security Issues in Grievance Arbitration - What
Do They Tell Us?" Journal of Collective Negotiations in the Public

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Sector November 19, 1990 - Fall V.19 N.4 pp. 243-251 This article analyzes the results of a study on grievance arbitration in Iowa public schools. The author discusses the consequences of utilizing particular language in a contract and how to avoid such pitfalls. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: EDUCATION/ SELECTION OF APPROPRIATE PROCESS

Coombe, George W., Jr. "Dispute Resolution and the Corporate Law Firm: Toward a Full-Service Legal Practice" Arbitration Journal March, 1990 V.45 N.1 pp. 29-34 This article dispels some myths about ADR that cause resistance and stresses the importance of combining ADR processes with traditional legal services. SUBJ MATTER: GENERAL/ ROLE OF LAWYERS

Coombe, George W., Jr. "Anatomy of a Business Dispute: Successful ADR Analysis by the Office of General Counsel" Arbitration Journal September 21, 1990 V.45 N.3 pp. 3-14 This article describes the ways in-house counsel can assess the applicability of ADR to its legal concerns and examines the expectations of the corporate client in relation to the response from corporate counsel to those expectations within a corporate ADR environment. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ DISPUTE PREVENTION/ SELECTION OF APPROPRIATE PROCESS

Cotta, James M. "Joint Conciliation Conferences: Trail-Blazing the Pathway to ADR in the Family Court" (Australia) Law Institute Journal April, 1990 V.64 N.4 pp. 235-237 This article describes Australia's use of joint conciliation conferences, attended by the disputing parents and their respective legal representation which attempts to provide a cooperative forum in the family court. INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ CONFIDENTIALITY/ COURT REFORM/ ORGANIZATION POLICIES AND RULES

Coulson, Robert "The Decisionmaking Process in Arbitration" Arbitration Journal September, 1990 V.45 N.3 pp. 37-41 The author discusses recent developments in psychological research on decisionmaking and concludes that advocates should study these findings

that reveal that decisionmaking is influenced by rules that govern how people learn, discover, and remember. ARB: PREPARATION/ ARB: CLIENT REP/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ROLE OF LAWYERS

Crain, Marion "Building Solidarity Through Expansion of NLRA Coverage: A Blueprint for Worker Empowerment" Minnesota Law Review October 29, 1990 V.74 N.5 pp. 953-1021 The author proposes that collective organization and collective bargaining are the best methods of empowering all workers, including middle management, and that statutory protection schemes and wrongful discharge doctrines are inferior alternatives. NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Craver, Charles B. "The Impact of Gender on Clinical Negotiating Achievement" Ohio State Journal on Dispute Resolution December 22, 1990 - Fall V.6 N.1 pp. 1-18 The author refutes the belief that female negotiators are less successful than their male counterparts, using data gathered from fifteen years of teaching legal negotiations. The data shows the absence of any statistically significant difference between results reached by female and male law students. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ POWER IMBALANCE

Cremades, Bernardo M.; Plehn, Steven L. "The New Lex Mercatoria and the Harmonization of the Laws of International Commercial Transactions" Boston University International Law Journal March 22, 1990 - Summer - 1982 V.2 N.3 pp. 317-348 An analysis of the developing international regulatory framework, the New Lex Mercatoria, approaches to its development and the role of arbitration in its development. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR

Creswell, Lyn Loyd "Federal Agency - Local Government Land Use Negotiations: Vulnerabilities of The Federal Bargaining Position" Washington University Journal of Urban and Contemporary Law May

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1988 - Summer V.33 pp. 3-71 This article examines the negotiating position of federal agencies in their confrontations with local governments over the use of federal property. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ COMPARISONS: HISTORICAL/ REQUIREMENTS: STATUTORY OR RULES/ FISS

Crisci, Pat E.; Wilmoth-Bennett, Lois; Dinero, Thomas E.; Brewer, Amanda M. "Stress and Anxiety of Administrators as Related to Collective Bargaining and Participative Management" Government Union Review January, 1990 - Winter V.11 N.1 pp. 24-45 A comparison of stress and anxiety levels of Ohio public school administrators as related to collective bargaining and participative management. Although no statistically significant stress differences were found between principals and superintendents, the study concluded principals were more accepting of teacher input. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES

Crisci, Pat E.; Fisher, Mary L.; Blixt, Sonya L.; Brewer, Amanda M. "Nursing Faculty Attitudes Toward Collective Bargaining For Nursing Faculty and For Nurses in the Service Setting" Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 29-48 This article relates the findings of a study concerning the attitudes of nursing faculty toward the use of collective bargaining. In general, the study shows that collective bargaining increases salaries, safeguards faculty rights, increases the voice of faculty, and results in a more equitable tenure and promotion process. SUBJ MATTER: EDUCATION/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Crowell, Eldon M.; Pou, Charles, Jr. "Appealing Government Contract Decisions: Reducing the Cost and Delay of Procurement Litigation With Alternative Dispute Resolution Techniques" Maryland Law Review 1990 V.49 N.1 pp. 183-254 This study concerning the growth of government contract appeals finds that agencies should adopt policies promoting and encouraging ADR techniques, particularly mini-trials, on a voluntary basis. NEG: W/ OR W/O ASSIST OF 3D-PARTY

NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/
NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:
GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/
AGREEMENT ON PROCEDURE/ ORGANIZATION POLICIES AND
RULES

Crowley, Patrick "Alternative Dispute Resolution" Catholic Lawyer
January, 1990 - Winter V.33 N.1 pp. 77-86 The author relates the
success of the Seattle Archdiocese's use of alternative dispute resolution in
the area of employment disputes. The remainder of the article entails
comments from an assembled panel concerning alternative dispute
resolution as employed in the Catholic Church. MED: RELATED
PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ
MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/ 3RD
PARTY: NEUTRALITY/ FAIRNESS

Cuevas, Carlos J. "Necessary Modifications and Section 1113 of the
Bankruptcy Code: A Search for the Substantive Standard for Modification
of a Collective Bargaining Agreement in a Corporate Reorganization"
American Bankruptcy Law Journal March 22, 1990 - Spring V.64
N.2 pp. 133-200 This Article points out the conflict between the
Bankruptcy Code and the National Labor Relations Act regarding
modifications of collective bargaining agreements and analyzes the
meaning of "necessary modification" under section 1113 of the Bankruptcy
Code. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER:
CORPORATE/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
JUDICIAL PARTICIPATION/ LEGISLATION

Datz, Harold J. "Alternative Dispute Resolution - Interest Arbitration
and the National Labor Relations Act" The Labor Lawyer January,
1990 - Winter V.6 N.1 pp. 127-132 This article explores interest
arbitration, the process by which parties to a bargaining dispute agree that
a neutral third party will resolve the dispute by imposing terms and
conditions of employment; also examined is the principal that interest
arbitration is not a mandatory subject of bargaining. NEG: W/ OR
W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING
ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT
(UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS:
STATUTORY OR RULES/ FAIRNESS

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Dau-Schmidt, Kenneth G. "Union Security Agreements Under the National Labor Relations Act: The Statute, the Constitution, and the Court's opinion in Beck" Harvard Journal on Legislation January, 1990 - Winter V.27 N.1 pp. 51-141 A critique of the Supreme Court's decision in Communications Workers of America v. Beck; the author concludes that the Court's decision amounts to judicial legislation and argues if the Court had properly performed its traditional role it would have interpreted section 8(a)(3) of the NLRA to allow agency shop agreements. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Davidson, Fraser "International Commercial Arbitration - The United Kingdom and UNCITRAL Model Law" Journal of Business Law November, 1990 pp. 480-494 Though the UNCITRAL Model Law on International Commercial Arbitration will be adopted by Scotland, it must be accompanied with a legislator's form of domestic arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ LEGISLATION

Davidson, Paul J. "Commercial Dispute Resolution: Alternatives to Litigation" Canadian Business Law Journal July, 1990 V.16 N.4 pp. 502-507 This is a review of a book on alternative dispute resolution which provides context to ADR, offers tools and techniques for ADR, and encourages participants to think differently about their roles in the process of dispute resolution. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ ROLE OF LAWYERS

Davidson, Paul J. "Alternative Dispute Resolution That Works!" Canadian Business Law Journal July, 1990 V.16 N.4 pp. 502-507 This article reviews a book that presents a comprehensive analysis of alternative dispute resolution. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: BINDING ARB- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ INST

NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF
SOURCE: BOOK REVIEW

Davis, Douglas R. "Overextension of Arbitral Authority: Punitive Damages and Issues of Arbitrability" Washington Law Review July, 1990 V.65 N.3 pp. 695-712 The author criticizes the Raytheon decision, which held that broad arbitration agreements authorize the award of exemplary damages and that Raytheon's constitutional right to a fair hearing was satisfied by the arbitrator not prohibiting the submission of evidence. The author suggests that courts should require arbitrators to define their scope of authority prior to substantive hearings, or require that an arbitrator's power to award punitive damages be explicitly provided in the agreement. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: COMMERCIAL

Davis, Susan C. "Upholding Compulsory Arbitration of ERISA Claims Properly Treats All Investors Equally" Minnesota Law Review October, 1990 V.75 N.1 pp. 123-156 This comment examines the second circuit's attempt to reconcile the policies underlying ERISA with the federal policy favoring enforcement of commercial arbitration agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL

de al Houssaye, Isabella "Manifest Disregard of the Law in International Commercial Arbitrations" Columbia Journal of Transnational Law March 22, 1990 - Spring V.28 N.2 pp. 449-472 This article addresses the question of whether manifest disregard of the law is a valid defense to enforcement of arbitral awards in international commercial arbitration, as it is in domestic arbitral awards. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

de Mesquita, Bruce Bueno "Multilateral Negotiations: A Spatial Analysis of the Arab-Israeli Dispute" International Organization June 22, 1990 - Summer V.44 N.3 pp. 317-340 The author evaluates possible applications of certain insights from social choice theory to problems in multilateral negotiations, then illustrates those applications

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with a review of the Middle East peace conference. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L

De Ly, Filip "Judicial Review of Decisions of the I.C.C. Court of International Arbitration" Journal of International Arbitration March, 1990 V.7 N.1 pp. 153-156 National courts have limited power to review the decisions of the I.C.C. Court of International Arbitration. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ COMPLIANCE ISSUES/ JUDICIAL PARTICIPATION

DeBenedictis, Don J. "Study Ok's Rent-A-Judge; But Private Judging Should be Better Regulated, Open to Public, Report Says" ABA Journal October 22, 1990 V.76 pp. 41(1) This article presents a summary of a study done in California on private judging. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM

Deitsch, Clarence R.; Dilts, David A. "Arbitrability in a Post-Bowen World: A Minefield for all Parties" Arbitration Journal June, 1990 V.45 N.2 pp. 45-51 The Supreme Court's ruling in Bowen v. U.S. Postal Service concerning procedural arbitrability creates potential dilemmas for employers and arbitrators, and threatens the arbitration process itself. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ COMPLIANCE ISSUES/ JUDICIAL PARTICIPATION

Dell'Omo, Gregory G.; Jones, James E., Jr. "Disparate Treatment in Labor Arbitration: An Empirical Analysis" Labor Law Journal December, 1990 V.41 N.11 pp. 739-750 This is a study of how arbitrators have dealt with the concept of equal treatment as it relates to just cause determination in labor arbitration since the passage of the Civil Rights Act of 1964 and the ensuing increase in disparate treatment cases. ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ FAIRNESS

Denenberg, Tia Schneider "The Electronic Arbitrator" Arbitration Journal March, 1990 V.45 N.1 pp. 48-52 Advances in modern technology have produced electronic devices that can increase the efficiency of the already beneficial arbitration process. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ QUALITY CONTROL

Deshpande, V.S. "A Prognosis and Remedies." (editorial) Journal of International Arbitration June 22, 1990 V.7 N.1 pp. 5-8 A critical analysis of choice of law provisions in international arbitration proceedings and the detrimental effect this "forum shopping" has on economically weaker parties. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ POWER IMBALANCE

Dilts, David A.; Karim, Ahmad; Rassuli, Ali "Mediation in the Public Sector: Toward a Paradigm of Negotiations and Dispute Resolution" Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 49-60 This article discusses the role of mediation as an adjunct to negotiation and suggests that the attitude of parties toward mediation is affected by the characteristics and strategy of the mediator. NEG: TACTICS, STRATEGIES AND TECHNIQUES-GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS

Dilts, David A.; Haber, Lawrence J.; Elsea, Stanely W. "Selection of Fact Finders in Iowa Public Sector Labor Disputes: Characteristics of Acceptable and Unacceptable Neutrals" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 207-216 A report of an empirical study which examined neutral fact-finders selected for and struck from panels in the Iowa Public Employment Relations Board case files. The study gives qualified support for the hypothesis that arbitrators are close substitutes for one another and that if an arbitrator's awards do not significantly deviate from the mean of all awards, that arbitrator will be acceptable. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: USE OF AGENTS/ NON-BINDING RECOMMENDATION PROC-NEUTRAL FACT-FINDING/ ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: EDUCATION/

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SUBJ MATTER: LABOR-GENERAL/ 3RD PARTY: SELECTION/
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Dingell, Markey "Ask GAO to Conduct Extensive Securities Arbitration Study" Tax Management Financial Planning Journal April 3, 1990 V.6 N.7 pp. 155(1) This article explores the request made by Congressmen John Dingell (D. Mich.) and Edward Markey (D. Mass.) to the General Accounting Office calling for an in-depth study of securities industry arbitration practices. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: SECURITIES

Dresslar, Tom "Family Court Mediators Seek Suite Immunity." (California) The Los Angeles Daily Journal July 12, 1990 V.103 N.139 p. 1 Approval of Senate Bill 57 would grant virtually absolute immunity to family-law attorneys who serve as volunteer, court-appointed mediators. The article discusses the positions of the proponents and opponents of the bill. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: LIABILITY & IMMUNITY/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ ROLE OF LAWYERS

Dreyer, Leo P. "Arbitration Agreements After Volt and Browning-Ferris" University of Kansas Law Review March 22, 1990 - Spring V.38 N.3 pp. 667-730 An examination of agreements to arbitrate, including a review of an arbitrator's authority to award punitive damages. The author concludes that broadly based arbitration clauses may not meet the needs of the parties and may lead to unexpected and unintended consequences. ARB: DRAFTING ARB AGREEMENT/ ARB: PREPARATION/ SUBJ MATTER: GENERAL/ INST NATURE: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

Dreyer, Leo P. "Arbitration Under the Kansas Arbitration Act: The Role of the Courts" The Journal of the Kansas Bar Association May, 1990 V.59 N.4 pp. 33(7) This article discusses the role of the court from the beginning to the end of arbitration conducted under the Kansas Arbitration Act and stresses its importance to the success of the arbitration process. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ JUDICIAL PARTICIPATION/ LEGISLATION

Dreyfus, Edward A. "Let Clients Negotiate More than Legal Issues." (Antenuptial Agreements) The Los Angeles Daily Journal July 25, 1990 V.103 N.148 pp. 7(1) Negotiation is a useful tool for couples to utilize in many aspects of their marriage. Learning how to negotiate within the relationship is similar to the intimate process of negotiating the prenuptial agreement. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: PSYCH CONSIDERATIONS/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: FAMILY (DOMESTIC REL)

Dye, Jessie Clayton "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 70-76 The speaker, who runs the Office for Due Process in Seattle, compares the duties of the office to that of a corporate ombudsman who acts as a neutral party in disputes between the church and its employees. The speaker goes on to describe the use of dispute resolution techniques employed by the office. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ARB: BINDING ARB-GENERAL/ INST NATURE: RELIGIOUS ORGANIZATIONS/ 3RD PARTY: NEUTRALITY/ ECONOMIC ADVANTAGES OF ADR

Dyer, Gregory M.; Judge, Brendan "Criminal Defendants' Waiver of the Right to Appeal - An Unacceptable Condition of a Negotiated Sentence or Plea Bargain" Notre Dame Law Review September 22, 1990 - Fall V.65 N.4 pp. 649-670 The authors argue against allowing a criminal defendant to waive a right to appeal as part of a negotiated sentence or plea bargain due to due process constraints, public policy, effects on judicial integrity, and effects on habeas corpus relief. NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: CRIMINAL

Ebb, Lawrence F. "Flight of Assets From the Jurisdiction 'In The Twinkling of a Telex': Pre-and Post-award Conservatory Relief in International Commercial Arbitrations" Journal of International Arbitration March, 1990 V.7 N.1 pp. 9-36 The enforcement of international commercial arbitration awards through the pre-and post-award attachment of assets in a particular jurisdiction is increasingly gaining international acceptance. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ

MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF
SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ JUDICIAL
PARTICIPATION

Edlund, William I.; Ragan, Charles; Tiffany, Joe; Corbin, Teresa
"Parties Resolve Major Fuel Dispute in Two-Step ADR with a CPR
Neutral" Alternatives to the High Cost of Litigation September, 1990
V.8 N.9 p. 145 The parties to a dispute over the price readjustment
clause in a fuel supply contract designed a new two-tiered ADR procedure.
After a mini-trial, before a neutral mediator failed to resolve the dispute,
the parties agreed to "baseball" arbitration, wherein the same mediator
picked between two figures submitted by the parties, his choice being
binding. The process saved time and money and preserved the
harmonious business relationship. NON-BINDING
RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB-
GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FINAL
OFFER ARB/ SUBJ MATTER: COMMERCIAL/ AGREEMENT ON
PROCEDURE/ INST NATURE: JUSTICE SYSTEM- SPECIAL
MASTERS/ MED: NEGOTIATED RULE-MAKING

Effron, Jack "The FMCS and the ACAS: Same Job, Different
Countries" Labor Law Journal February, 1990 V.41 N.2 pp.
112-127 This article compares the United States Federal Mediation and
Conciliation Service (FMCS) with the British Advisory, Conciliation and
Arbitration Service (ACAS) offering advice and concluding each service
could learn from the other. INST NATURE: GOV'T ENTITIES/
COMPARISONS: CROSS-CULTURAL/ COMPARISONS:
HISTORICAL/ ORGANIZATION POLICIES AND RULES

Eichmann, Erwin P. "Procedural Aspects of GATT Dispute Settlement:
Moving Towards Legalism" International Tax & Business Lawyer June
22, 1990 - Summer V.8 N.1 pp. 38-77 The author examines the
experience of GATT dispute settlement, focusing on the tension between
legal and political modes of discourse and the Montreal Understanding,
and proposes solutions for existing problems. NEG: W/ OR W/O
ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ INST NATURE:
GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SETTLEMENT:
PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR
RULES

Elsea, Stanley W.; Dilts, David A.; Haber, Lawrence J. "Factfinders
and Arbitrators in Iowa: Are They The Same Neutrals?" Journal of
Collective Negotiations in the Public Sector January, 1990 - Winter

V.19 N.1 pp. 61-67 The authors examine neutrals in factfinding and arbitration, and conclude that each process requires different training and skills; but there is a group, comprised mostly of attorneys and members of the National Academy of Arbitrators, who regularly get selected to serve in both processes. MED: RELATED PROCESSES-GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING/ ROLE OF LAWYERS

Emmerson, Alec J. "People's Republic of China." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 307-312 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin; this article is a synopsis of maritime arbitration in the People's Republic of China under the China Maritime Arbitration Commission ("China MAC"). Included in the article is a profile of the China MAC, which notes specific attributes and requirements of the Commission. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Enslin, Richard A. "ADR: Another Acronym, or a Viable Alternative To The High Cost of Litigation and Crowded Court Dockets? The Debate Commences" New Mexico Law Review June 1, 1990 - Winter V.18 N.1 pp. 1-47 This article explains the different societal factors which have given rise to the increased amount of litigation over the past years, and covers the arguments for and against ADR as a method for remedying this increased litigation. Different types of ADR techniques are explained and discussed. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OPENING AND SETTING GUIDELINES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM

Ericsson, Samuel E. "Christian Leaders and Arbitration" Quarterly (Christian Legal Society) June 22, 1990 - Summer V.11 N.2 p. 32 Examination of conflict within Christian ministries based on real legal battles between Christian leaders and their followers, with advice to both sides. NON-BINDING RECOMMENDATION PROC- GENERAL/

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NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/
NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL
EVAL/ INST NATURE: RELIGIOUS ORGANIZATIONS

Fajardo, Beda G. "Philippines" (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 313-320 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article provides a summary description of the status, requirements, and procedures of maritime arbitration in the Philippines, including a step by step view of the arbitration process. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Farber, Henry S.; Neale, Margaret A.; Bazerman, Max H. "The Role of Arbitration Costs and Risk Aversion in Dispute Outcomes" Industrial Relations November, 1990 - Fall V.29 N.3 pp. 361-384 The author investigates the effects of risk aversion and arbitration costs on bargaining outcomes, finding strong evidence that direct costs of arbitration lead to higher rates of agreement, but finding little evidence that risk aversion is related to the probability of agreement. SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL

Feiock, Richard C.; West, Jonathan P. "Public Presence at Collective Bargaining: Effects on Process and Decisions in Florida" Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 69-82 This article provides insight as to the effects of public presence at collective bargaining/labor negotiations in the public sector in states, such as Florida, with "sunshine" bargaining laws; study suggests that while some negative effects do result, such effects tend to be involved with procedure as opposed to final output. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: PSYCH CONSIDERATIONS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ LEGISLATION

Feldman, John P. "Soviet Joint Ventures: Providing For Appropriate Dispute Resolution" Cornell International Law Journal 1990 - Winter V.23 N.1 pp. 107-131 The author discusses the allowance of soviet ventures with non-soviet partners as a product of "Glasnost"; however, he

warns that different legal structures and attitudes toward arbitration should be considered, and recommends options available for dispute resolution in light of soviet attitudes. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: DRAFTING ARB AGREEMENT/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ DISPUTE PREVENTION/ SELECTION OF APPROPRIATE PROCESS

Feliciano, Santiago, Jr. "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 61-62 The Cleveland Catholic Diocese has created the Legal Aid Society of Cleveland, which is designed to resolve disputes others have with the church through mediation instead of through the more costly process of litigation. MED: RELATED PROCESSES-GENERAL/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: MANDATE TO USE/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS/ TEACHING

Felker, Lon S.; Griffith, Edwin R.; Durrant, Edward W. "Public Sector Unionization in the South: An Agenda for Research" Journal of Collective Negotiation in Public Sector 1984 V.13 N.1 pp. 1-14 The author discusses four patterns of public sector unionism in the South to uncover key determinants of the growth in that region and to raise questions regarding public sector union growth nationwide. NEG: USE OF AGENTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION

Fellner, Jonathan "JAMS Picked by State Agency for Earthquake Cases" The Los Angeles Daily Journal February 2, 1990 V.103 N.25 p.1 This article announced that a private firm, the Judicial Arbitration and Mediation Services, Inc. ("JAMS") had been hired by California to mediate up to 150 claims filed against the state as the result of an earthquake. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T

Ferrier, Jon T. "The Role of Referees in Domestic Relations Cases" (Family Law) Michigan Bar Journal February, 1990 V.69 N.2 pp. 128(6) An analysis of the past, present, and potential roles of referees in domestic relations cases; the author suggests that circuits should support referee systems that serve the needs of the parties, promote financial

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efficiency, and provide due process of law. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ MED: OPENING AND SETTING GUIDELINES/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: TRAINING/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Feuille, Peter; LeRoy, Michael "Grievance Arbitration Appeals In The Federal Courts: Facts and Figures" Arbitration Journal March, 1990 V.45 N.1 pp. 35-47 A study of cases involving grievance arbitration appeals finds that the federal courts are generally supportive of the arbitration process and that arbitration still provides final and binding resolution for the vast majority of grievances. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE ISSUES/ COURT REFORM

Fior, Michael W. "Negotiating the Lease" Legal Management January, 1990 V.9 N.1 pp. 24(4) A careful explanation of lease negotiation in real estate transactions. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: CONSUMER

Firth, Derek "Jurisdiction to Avoid Interest on Sums to be Determined by Arbitration" New Zealand Law Journal June, 1990 pp. 219-220 Due to unsettled issue of allowing an arbitrator to fix interest on a sum, author strongly suggests including an express provision allowing arbitrators to award interest within commercial documents. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW

Fisher, J.A. "Problem Areas in Hong Kong Construction Contracts" Construction Law Journal January, 1990 - Summer V.5 N.3 pp.

167-174 The article briefly examines a number of areas in construction contracts which often give rise to proceedings in Hong Kong using English law as illustrations.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Fitzgibbon, Susan A. "The Judicial Itch" Saint Louis University Law Journal March 22, 1990 - Spring V.34 N.3 pp. 485-550

Discussing alternative dispute resolution, the criticisms of Owen Fiss, and the freedom to choose methods of dispute resolution, the article suggests that judicial review of arbitration awards is often tinkering for its own sake.

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Fitzgibbon, Susan A. "Sexual Harassment and Labor Arbitration" (Third Comparative Labor Law Roundtable 1989) Georgia Journal of International and Comparative Law March 22, 1990 - Spring V.20 N.1 pp. 71-87

An analysis of labor arbitration as an appropriate forum to remedy the problems of sexual harassment.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Flanagan, Robert J. "Socrates Confronts Final-Offer Selection" Industrial Relations September 22, 1990 - Fall V.29 N.3 pp. 526-527

The author promotes the use of final-offer arbitration as an effective way to enhance the odds of settlement in labor relations disputes.

ARB: FINAL OFFER ARB/ ARB: BINDING ARB- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ COMPARISONS: HISTORICAL/ SUBJ MATTER: LABOR-GENERAL

Flanagan, Robert J. "The Economics of Unions and Collective Bargaining" (A Symposium: The Economics of Human Resource Management) Industrial Relations March 22, 1990 - Spring V.29 N.2 pp. 300-315

In the context of discussing the economics of unions, the author considers the effects of arbitration decisions and compares compromise versus selection of a final offer from the union or employer.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY:

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GAME THEORY/ ARB: FINAL OFFER ARB/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ DISPUTE PREVENTION

Flannery, Harry A. "Guidance As To The Arbitrator's Authority: The Terms of the Collective Bargaining Agreement" Labor Law Journal February, 1990 V.41 N.2 pp. 89-90 The author contends that the bottom line in the Third Circuit's decision in PA Power v. IBEW is that arbitrators exceed their authority when they deem arbitrable those issues whose resolution calls for the addition of new terms or conditions to the agreement. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL

Fortado, Bruce; Travis, Timothy J.; Jennings, Kenneth M. "Refusal to Accept a Work Assignment: How Arbitrators Rule in Discharge Cases" Employee Relations Law Journal September 22, 1990 - Autumn V.16 N.2 pp. 205-216 This article concludes that arbitration decisions, in cases where an employee refuses a job assignment, over time, or holiday work, usually result in sustaining discharges or enforcing suspensions imposed by employers. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Forte, Lowell "Clogged Courthouses Fuel an Industry." (ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. 58 The increased use of ADR methods in business, tort, and family law is a result of overcrowded dockets, potential financial savings, and a lawyer's duty to inform the client of resolution through ADR means. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: OTHER TORTS/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/ ROLE OF LAWYERS

Forte, Lowell "International Center Looking For Clients." (Center for International Commercial Arbitration; ADR: A Special Report) (California Law Business) The Los Angeles Daily Journal July 9, 1990 V.103 N.136 p. S20(1) A profile of a major international arbitration center in

Los Angeles. ARB: TRAINING AND QUALIFICATIONS OF
ARBITRATOR/ SUBJ MATTER: INT'L

Fought, Angie "Dispute Resolution Program a National Model."
(Pennsylvania) Pennsylvania Law Journal-Reporter June 11, 1990
V.13 N.23 p.3 This article reports on the nationally recognized
Pennsylvania Bar Association Lawyer Dispute Resolution Program, which
uses both mediation and arbitration to resolve disputes. MED:
RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND
ADMIN OF MEDIATION CENTERS/ ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ ARB: MANDATORY,
COURT-ANNEXED- FEES & FUNDING/ ARB: SERVING AS
ARBITRATOR/ 3RD PARTY: VOLUNTEER OF LAY PERSONS

Fox, M.J., Jr.; Cooner, Donna "Arbitration: Preparing for Success"
Journal of Collective Negotiations in the Public Sector September 22,
1990 - Fall V.19 N.4 pp. 253-260 The author outlines the steps that
should be taken to successfully plan and present an arbitration case.
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: FEES
AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB:
CLIENT REP

Fox, Mary Ellen "Court Muddles Judicial Review of Arbitrations"
Pennsylvania Law Journal-Reporter April 23, 1990 V.13 N.16 p. 11
This article examines Union Switch & Signal Division v. United
Electrical, Radio and Machine Workers of America, Local 610, in which
the 3rd Circuit ruled that federal courts have the power to hear motions on
non-final labor arbitration awards in limited circumstances. ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL
REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION

Fraundorf, Martha Norby "Collective Bargaining Films: A Critical
Survey" Industrial and Labor Relations Review October, 1990 V.44
N.1 pp. 144-151 The author examines the strengths and weaknesses of
a number of films dealing with the subject of collective bargaining in
terms of their pedantic and training value. NEG: W/ OR W/O ASSIST
OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ TEACHING

Fraundorf, Martha Norby "Construction Project Agreements" Labor
Law Journal January, 1990 V.41 N.1 pp. 22-30 This article
highlights the benefits for building trade unions in using special project

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agreements for large construction projects to override certain local agreements. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: USE OF AGENTS/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

Freedman, Harry "Securing the Attendance of Witnesses Before Labour Relations Tribunals." (Canada) Advocates' Quarterly April, 1990 V.11 N.3 pp. 355-371 This article explains the sources of power for securing the attendance of witnesses for federal tribunals and Ontario tribunals in Canada, the process of obtaining and serving the summons, as well the proper form of the summons. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ COMPLIANCE ISSUES/ LEGISLATION/ SUBPOENA AND DISCOVERY

Frei, Lionel; Trechsel, Stefan "Origins and Applications of the United States-Switzerland Treaty on Mutual Assistance in Criminal Matters" Harvard International Law Journal January, 1990 - Winter V.31 N.1 pp. 77-97 The article details the problems and accomplishments of the U.S. - Swiss Treaty on Mutual Assistance in Criminal Matters, and concludes that it illustrates the opportunities available to other states to implement like agreements. NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CRIMINAL/ COMPARISONS: CROSS-CULTURAL/ CONFERENCE PROCEEDINGS

Freund, James C.; Millhauser, Marguerite S. "Deterring the First Strike: Contract Clauses to Handle Disputes" Corporate Counsel's Quarterly January, 1990 V.6 N.1 pp. 18-50 Edited transcript of a discussion between the authors focusing on the practical implications of providing for ADR in contracts before problems arise and offering model provisions for general use in agreements of all types. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ 3RD PARTY: SELECTION/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Frisbee, Stephen P. Basic Documents on Grievance Arbitration, Private Sector This bibliography is a compilation of books, articles, conference proceedings and other reference materials on the topic of grievance arbitration in the public sector. The resources listed cover the years 1970 to 1990. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BIBLIOGRAPHY

Gallagher, Daniel G.; Veglahn, Peter A. "Changes in Bargaining Behavior as a Result of Experience Under a Statutory Impasse Scheme: Theory and Evidence" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 175-188 Ten years of experience with Iowa's three-step impasse scheme - mediation, fact-finding, and arbitration - shows no evidence that parties limit bargaining or otherwise adopt strategic positions to take advantage of the system. NEG: TACTICS, STRATEGIES AND TECHNIQUES-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-PREP/ NEG: USE OF BARGAINING TEAMS/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EDUCATION/ REQUIREMENTS: STATUTORY OR RULES

Gandolfo, Peter "Avoiding Disputes - Creatively" Law Institute Journal June 22, 1990 V.64 N.11 p. 1013 A brief article discussing the developments made in Australia concerning ADR, and suggesting reasons why lawyers ought to seriously consider ADR as another element of their practices. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ ROLE OF LAWYERS

Garcia de Enterría, Javier "The Role of Public Policy in International Commercial Arbitration" Law and Policy in International Business June 22, 1990 - Summer V.21 N.3 pp. 389-440 A discussion of the role and concept of public policy throughout international commercial arbitration systems, with a comparative analysis of the public policy bases in the New York Convention and in American and Spanish practices. ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Gardiner, David C., Jr. "Steering Away From the Arbitration Process: Recognizing State Law Tort Actions for Unionized Employees" University of Richmond Law Review January, 1990 - Winter V.24 N.2 pp. 233-251 An examination of the Supreme Court's decision in Lingle v. Norge Division of Magic Chef, Inc. and the ramifications for section 301 of the Labor management Relations Act of 1947. The author concludes that this decision may threaten the use of arbitration as a tool for resolving labor disputes by allowing state law tort remedies for unionized employees. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Gardner, Anthony "The Doctrine of Separability in Soviet Arbitration Law: An Analysis of Sojuzneftexport v. JOC Oil Co." Columbia Journal of Transnational Law September 22, 1990 - Fall V.28 N.1 pp. 301-328 This note examines the doctrine of arbitration clause separability and its acceptance in Soviet jurisprudence and in the practice of the Arbitration Court. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES

Garrity, Ronald P. "'Cook' May Help Revive Arbitration" The Los Angeles Daily Journal June 19, 1990 V.103 N.122 p. 7 The article suggests that a recent California appellate court decision could revive the use of arbitration clauses in mid-level employment contracts by enforcing their use in discrimination claims under California law. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-DISCRIMINATION/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COURT REFORM

Geffner, Robert; Pagelow, Mildred Daley "Mediation and Child Custody Issues in Abusive Relationships" Behavioral Sciences & The Law March 22, 1990 - Spring V.8 N.2 pp. 151-159 This article focuses on obtaining equitable divorce settlements and child custody for victims of domestic violence and evaluates the pros and cons of court-ordered mediation in these situations. MED: OBTAINING AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COMPLIANCE ISSUES/ CONFIDENTIALITY/ COURT REFORM/

ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/
RELATION TO ONGOING LITIGATION/ SELECTION OF
APPROPRIATE PROCESS

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This article provides faster and less antagonistic methods for solving domestic relations problems. The article presents three specific methods: 1) mandatory mediation; 2) arbitration; 3) an administrative rather than adversarial format.

MED: RELATED PROCESSES-GENERAL/
MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED:
OTHER JUDICIAL SETTLEMENT DEVICES/ MED: ENCOURAGING
COMM AND NEG/ MED: PSYCH FACTORS/ ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ ARB: TRAINING AND
QUALIFICATIONS OF ARBITRATOR/ SUBJ MATTER: FAMILY
(DOMESTIC REL)/ SETTLEMENT: ENFORCEMENT OF
SETTLEMENT OR AWARD/ DISPUTE PREVENTION

Giardina, Andrea "Court Decisions in Italy Interpreting and
Implementing the New York Convention" Journal of International
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The article describes the effects of the 1983 Reform on Italy's arbitration proceedings. ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING
ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ
MATTER: INT'L/ REQUIREMENTS: STATUTORY OR RULES

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Court Welfare Officers: A Review of 18 Months' Practice in the Croydon
County Court." Family Law July, 1990 V.20 pp. 246-247

A review of the preliminary hearing process developed by the Croydon county court system. The scheme has been successful in diverting parents away from litigation and aids in resolving conflicts during the conciliation process.

MED: RELATED PROCESSES-GENERAL/ MED:
RELATED PURPOSES- THEORY AND STRATEGIES/ MED:
PRETRIAL CONF/ MED: TIMING/ MED: ENCOURAGING COMM
AND NEG/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ
MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ COURT REFORM

Gillie, Michael S. "Voluntary Mediation; Tool to Assess Risks and Speed
Settlements" Trial October, 1990 V.26 N.10 pp. 58-62

The author describes voluntary mediation as a tool to enable faster settlements and evaluates the risks of litigating tort actions. MED: RELATED

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MED: ENCOURAGING COMM AND NEG/ MED: CAUCUSING/
SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS

Gillin, Leslie M. "A Test of Arbitrability: Does Arbitration Provide Adequate Protection for Aged Employees?" Villanova Law Review April, 1990 V.35 N.2 pp. 389-433 The author recounts the history of labor arbitration and commercial arbitration under the Federal Arbitration Act for the purpose of analyzing the Third Circuit Court of Appeals' ruling in Nicholson v. CPC International Inc., 877 F.2d 221 (3d Cir. 1989) (holding that plaintiff has a right to a judicial forum in action brought under the Age Discrimination Act despite a contractual obligation to arbitrate). ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ ISSUE & CLAIM PRECLUSIVE EFFECTS

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Glasser, Cyril "Contemporary Problems in International Arbitration" (book review) Lloyds Maritime and Commercial Law Quarterly February, 1990 V.1 pp. 142-144 The reviewer describes a book comprised of essays submitted at a conference held at the Queen Mary College School of International Arbitration. The volume is especially valuable because of its thorough treatment of a broad range of contemporary international arbitration issues. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Glenn, Robin Day "When Do You Have to Amend? When Can You Negotiate? Background and Observations on In Re Southland Corp." (New York, California) Franchise Law Journal September 22, 1990 - Fall V.10 N.2 pp. 21(7) This article outlines general rules concerning franchise offering amendments and examines the jurisdictions where negotiated changes in franchise agreements are exempt from disclosure rules. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

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Goering, Steven J. "The Standard of Impartiality as Applied to Arbitrators by the Federal Courts and Codes of Ethics" Georgetown Journal of Legal Ethics March 22, 1990 - Spring V.3 N.4 pp. 821-835 A standard of impartiality for arbitrators is proposed that remedies any inconsistencies between the arbitrators' professional codes and federal law, to be used by federal judges facing claims of bias against the arbitrator. ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ 3RD PARTY: CONFLICT OF INTEREST/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/ FAIRNESS

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Goodhard, Kim A. "The California Regulations on Negotiated Franchise Sales - Friend or Foe of the Negotiated Transaction?" Franchise Law Journal January, 1990 - Winter V.9 N.3 pp. 1(6) This article examines the general franchise disclosure and registration issues arising from negotiated transactions, and asserts that the California approach will prove only moderately successful due to its rigid controls on negotiations.

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Gorske, Robert H. "A Reply." (To Reuben L. Hedlund and Deborah C. Poskin on Using Dispute Resolution to Manage Complex Litigation) Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 77-81 In his reply to commentary regarding his discussion of the arbitrator's approach to discovery and possible settlement, the author defends the use of a "liberal" discovery approach and suggests that arbitrators should fully hear the issue at hand before any issues of fact or law are determined. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY

Graham, W.C. "Proposals For a New Alberta Arbitration Act" Canadian Business Law Journal February, 1990 V.16 N.2 pp. 185-197 A commentary on the efforts of the Alberta Institute to create an arbitration act that encourages the use of arbitration as a means of resolving commercial disputes. The article discusses the UNCITRAL Model Law as a guide for the scope of the Act, including the powers of the arbitrator and the court. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: MANDATE TO USE/ LEGISLATION

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Grodin, Joseph R. "Past, Present, and Future in Wrongful Termination Law" (Alternative Dispute Resolution) The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 97-106 This article discusses the National Labor Relations Board's general policy of deferring to contractual grievance and arbitration procedures for enforcement of employee rights

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Guccione, Jean "Rent-a-Judge Report Gets Cool Reception; A Judicial Council Panel Rejects Most Recommendations; New Study Requested" The Los Angeles Daily Journal November 6, 1990 V.103 N.221 p. 1 The article discusses findings of advisory panel on private judging and reports that the Judicial Council committee recommends a new advisory panel to study effects of private judging on the court system. ARB: PRIVATE JUDGING/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ ORGANIZATION POLICIES AND RULES

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Guccione, Jean "Private Judging Now Available Through Mail; A New Twist From JAMS" The Los Angeles Daily Journal September 6, 1990 V.103 N.178 p. 1(2) Judicial Arbitration and Mediation Services Inc. is marketing resolution by mail to allow parties to resolve simple disputes with written briefs and appropriate documentation. This pilot program in L.A. is limited to a 16 member panel of retired jurists. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL

Guidry, Greg; Huffman, Gerald J., Jr. "Legal and Practical Aspects of Alternative Dispute Resolution in Non-Union Companies" The Labor Lawyer June, 1990 - Winter V.6 N.1 pp. 1-48 The author suggests that binding ADR in non-union companies may be inappropriate since employers still have the final decision in regard to "at-will" employees. The author recommends an internal grievance system without regard to any effect on litigation. NON-BINDING

RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING
ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL

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A discussion of the erosion of the at-will doctrine and the employment contract as tools with which an employer can effectively deter or mitigate employee lawsuits. INST NATURE: PRIVATE, PROFIT-MAKING/
SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:
EMPLOYMENT (NON-UNIONS)/ DISPUTE PREVENTION

Haas, Peter M. "Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control" International Organization 1989 - Summer V.43 N.3 pp. 377-403 This article is an examination of how the Mediterranean Action Plan (Med Plan) was negotiated and how it functions to contribute to states' domestic compliance with the plan.
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NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-NEGOTIATOR'S DILEMMA/ NEG: CULTURAL CONSIDERATIONS/
INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:
ENVIRONMENT/ SUBJ MATTER: REGULATORY/
COMPARISONS: CROSS-CULTURAL/ COMPLIANCE ISSUES

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As a means of reassuring consumers about the fairness of the arbitration process, county bar associations that offer fee-arbitration sources will be required to include a non-lawyer among the three-member panels that decide payment disputes. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ FAIRNESS

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This article explores the question of the extent to which equity jurisprudence can be applied to commercial negotiations that have not yet matured into a contract. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: PUBLIC POLICY

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Haralambie, Ann M. "Alternatives to Litigation" (Special Issue: A to Z a Primer on Divorce) Family Advocate January, 1990 - Winter V.12 N.3 pp. 52(3) pp. 52-54 A discussion of the rise of ADR methods, particularly mediation, as a means of resolving marital agreement disputes. The article identifies types of mediation, how to choose a mediator, the role of lawyers, financial considerations, and the flaws of mediation. MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR

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and some inherent characteristics facilitating dispute settlement. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: MARITIME

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Harris, Rodney "Contrasting 'Principled Negotiation' With the Adversarial Model" Victoria University of Wellington Law Review January, 1990 V.20 N.1 pp. 91-104 The author contrasts the "principled" negotiation model of dispute resolution with the "zealous advocacy" model. This discussion is made relative to ethics and the practical concerns of negotiation and litigation. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ INST NATURE: JUSTICE SYSTEM- GENERAL/ ETHICS: GENERAL/ FAIRNESS

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ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: OTHER TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION

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Hedlund, Reuben L.; Paskin, Deborah C. "Another View of Expediting the Large, Complex Case: A Response to Arbitrator Gorske From Counsel for the Defense" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 61-75 In this response to an article on the efficient management of a large complex case, the authors point to the Rules for the Non-Administered Arbitration of Business Disputes as the key to the efficient arbitration of such large cases.
NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/
ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY

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ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ SUBJ
MATTER: GENERAL/ REQUIREMENTS: CONTRACTUAL
CLAUSES/ AGREEMENT ON PROCEDURE/ DISPUTE
PREVENTION

Helm, Joseph H., Jr.; Noonan, Daniel A. "ADR: An Alternative for Settling Civil Disputes" (Includes Related Article) (Wisconsin) The Wisconsin Lawyer July, 1990 V.63 N.7 pp. 14(5) An examination of the efficiency in resolving cases through alternative dispute resolution. The author provides a comparison of arbitration and mediation. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: SELECTION/ SELECTION OF APPROPRIATE PROCESS/ ECONOMIC ADVANTAGES OF ADR

Hermann, Michele S. G. "Mediate, Don't Litigate: How to Resolve Disputes Quickly, Privately and Inexpensively Without Going to Court" (book review) Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 201-205 This book review describes Mediate, Don't Litigate as a self-help style book which explains mediation and gives specialized applications thereof. The book is found to be appropriate for novices. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ TYPE OF SOURCE: BOOK REVIEW

Hermann, Michele S.G. "Divorce Mediation Theory and Practice" (book reviews) Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 459-466 The author reviews Divorce Mediation Theory and Practice, concluding that the authors failed to provide balanced information on the relative merits of the adversary system versus divorce mediation. The reviewer notes that the authors do not address important criticisms of divorce mediation regarding women, minorities, and the treatment of poor persons. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW

Hermann, Michele S.G. "Anatomy of Mediation, What Makes It Work" (book review) Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 201-205 The author discusses a book which is, in essence, a case study of a contract dispute, detailing a strong, coercive mediation style. Although the book was written in an easy-to-understand fashion,

1990 BIBLIOGRAPHY

ideal for non-scholars, the reviewer feels that it tends to oversimplify mediation and to treat mediation as if only one form/style exists. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Hermann, William C. "Arbitration of Securities Disputes: Rodriguez and New Arbitration Rules Leave Investors Holding a Mixed Bag" Indiana Law Journal June 22, 1990 - Summer V.65 N.3 pp. 697-722 This article discusses recent Supreme Court decisions mandating the enforcement of pre-dispute arbitration agreements for any claims arising under the securities statutes, thereby benefiting investors because arbitration is quicker and cheaper than litigation for all parties involved. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: GENERAL/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE ISSUES/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION

Hill, Eve "Alternative Dispute Resolution in a Feminist Voice" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 337-379 This article explores the possibilities and problems of alternative dispute resolution methods from a feminist perspective. The author provides suggestions for the integration of feminism into all aspects of ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ SUBJ MATTER: GENERAL/ COMPARISONS: CROSS-CULTURAL

Hill, Richard L.; Zuelke, Dennis C.; Landry, Richard G.; Halver, David J. "Fact-Finding as a Bargaining Impasse Resolution Procedure: A North Dakota Study and Related Literature Review" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 217-242 This article examines perceptions of the fact-finding process in the North Dakota school employment context and concludes that modifications are needed, that fact-finding may become less useful over time, that fact-finding may be most useful in connection with other mechanisms, and that it may also be necessary to view fact-finding as an early option among dispute resolution mechanisms.

NON-BINDING RECOMMENDATION PROC- NEUTRAL
FACT-FINDING/ SUBJ MATTER: GENERAL/ SUBJ MATTER:
EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
SELECTION OF APPROPRIATE PROCESS

Hines, Bernard L. "Post-Trial Blues - Did I Win?" New York State Bar Journal April, 1990 V.62 N.3 pp. 51-53 This informational article describes Arbitration Forums Inc., a non-profit organization with offices in all fifty states and Puerto Rico. This organization provides arbitration and mediation services to insurance companies and others, expediting the resolution of claims and disputes. MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INSURANCE

Hoagland, Alexander C. "Modification of Mexican Arbitration Law" Journal of International Arbitration March, 1990 V.7 N.1 pp. 91-100 General discussion of arbitration proceedings in Mexico. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Hoellering, Michael F. "Dispute Resolution First-Aid Kit for Attorneys", (book review) Arbitration Journal March, 1990 V.45 N.1 pp. 53-54 This review describes the book as a crash-course in the law and practice of ADR for attorneys. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ CONFIDENTIALITY/ ETHICS: GENERAL/ SELECTION OF APPROPRIATE PROCESS

Hoffman, Eileen B. "The Anatomy of Mediation: What Makes It Work" Industrial and Labor Relations Review January, 1990 V.43 N.2 pp. 324-325 The reviewed book by Kagel & Kelly centers on a realistic case study in mediation of a labor-management dispute, and is judged to be an excellent teaching device. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING

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Holmes, Richard A.; Rogow, Robert; Maynes, S. Stuart "A Multivariate Logic Analysis of the Outcomes of Arbitration Decisions in British Columbia" Evaluation Review June, 1990 V.14 N.3 pp. 247-263 The authors examine the effect that union size, occupations, arbitration proneness, industry, issue, year, and arbitrator experience have in determining whether the arbitration favors the union or management side in British Columbia. ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Honeyman, Christopher "On Evaluating Mediators" Negotiation Journal January 1990 V.6 N.1 pp. 23-36 The author suggests methods for evaluating mediators based on seven parameters of effectiveness, including persuasion and investigation skills. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING

Honoroff, Brad; Matz, David; O'Connor, David "Putting Mediation Skills to the Test" Negotiation Journal January, 1990 V.6 N.1 pp. 37-46 The article discusses an evaluation process of a Massachusetts court mediation program based largely on the ideas of Christopher Honeyman; the authors confirm the success of Honeyman's methods and suggest that all mediators could enhance their skills by concentrating on specific concepts of mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING

Hood, Joseph L., Jr. "Arbitration and Litigation of Public Customers' Claims Against Broker-Dealers After McMahon" (Symposium: Business Tort Litigation) St. Mary's Law Journal March 22, 1990 - Winter V.19 N.3 pp. 541-588 This article discusses liability under section 10(b) of the Securities Exchange Act and under state law for breach of fiduciary duty, the arbitration of customers' claims, and the effect of arbitration on investors and the securities industry. ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES

Horne, William "How the Oil Spill Settlement Exploded" (Exxon Valdez) American Lawyer June, 1990 V.12 N.5 pp. 41 A description of the terms of the preliminary settlement agreement between Exxon and the U.S. government concerning claims brought as a result of the Valdez oil spill and a discussion of the resulting break down in negotiations after the state of Alaska refused to join in the agreement.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-NEGOTIATOR'S DILEMMA/ INST NATURE: GOV'T ENTITIES/
SUBJ MATTER: ENVIRONMENT/ SETTLEMENT: PRESSURES TO SETTLE

Horowitz, Robert "They Said it Couldn't be Settled." (Alternative Dispute Resolution) (Wisconsin) The Wisconsin Lawyer July, 1990 V.63 N.7 pp. 19(1) The author examines a negotiating technique where each party reveals to a judge how much that party will accept or pay in settlement. The author concludes that this confidential approach is a very effective means of resolving disputes with multiple defendants.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ INST NATURE: GENERAL/
SUBJ MATTER: GENERAL/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: PRACTICE OF LAW/ CONFIDENTIALITY/ JUDICIAL PARTICIPATION

Huang, Paiff "Taiwan" (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 347-352 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a synopsis of maritime arbitration in Taiwan. Summarized are facts and procedures regarding arbitration in general in the Republic of China, and the arbitral body that handles all arbitration disputes. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Hukill, Craig "Labor And The Supreme Court: Significant Issues of 1990-91" Monthly Labor Review March 22, 1990 V.114 N.1 pp. 34(7) The author reviews labor law cases pending before the Supreme Court, and gives his opinion about how the addition of Justice Souter will affect labor law. SUBJ MATTER: LABOR-GENERAL/ SUBJ

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MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:
EMPLOYMENT (NON-UNIONS)

Hunnicut, Charles A.; Boyd, Stephen M.; Stevenson, Russell B. Jr.;
Juster, Kenneth L.; Hershey, Loren W. "Report to the Washington
Foreign Law Society on the UNCITRAL Model Law on International
Commercial Arbitration" Ohio State Journal on Dispute Resolution
September 22, 1990 - Spring V.3 N.2 pp. 303-360 The committee
recommends that the entire Model Law on International Commercial
Arbitration need not be adopted at the federal level, that the Federal
Arbitration Act would be improved by incorporating certain provisions of
the Model Law, and that jurisdictions wanting to be venues for
commercial arbitration should adopt the Model Law. ARB: BINDING
ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER:
INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
LEGISLATION

Hunter, David "Chinese Labour Dispute Arbitration Procedures: An
Early Review in Zhejiang Province" Comparative Labor Law Journal
March 22, 1990 - Spring V.11 N.3 pp. 340-351 This paper
describes and explains the legal procedures established by the Chinese
government for the resolution of labour disputes, both for domestic and
foreign enterprises as implemented in Zhejiang Province. MED:
RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-
GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER:
LABOR-GENERAL

Hunter, Martin "A Guide to the UNCITRAL Model Law on
International Commercial Arbitration: Legislative History and
Commentary" International and Comparative Law Quarterly April,
1990 V.39 N.2 pp. 494-495 A review of a book in which the
authors edited the record of the UNCITRAL Working Group's
proceedings so that the reader may select any particular provision of the
model law and trace its legislative history. ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF
SOURCE: BOOK REVIEW/ LEGISLATION

Hurbutt, Guy "A Corporate Perspective on Alternative Dispute
Resolution." Advocate (Idaho) November, 1990 V.33 N.11 pp.
12(2) This article presents reasons why ADR is appealing to corporations
and discusses the corporate response to ADR. INST NATURE:

JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: CORPORATE/
ECONOMIC ADVANTAGES OF ADR

Huston, Peter "Antidumping and Countervailing Duty Dispute Settlement Under the United States-Canada Free Trade Agreement: Is the Process Constitutional?" Cornell International Law Journal June 22, 1990 - Summer V.23 N.3 pp. 529-552 The article concerns Chapter 19 of the Free Trade Agreement which provides for a binational dispute settlement provision for antidumping and countervailing duty cases. The author ultimately concludes that the Supreme Court would uphold the provisions if constitutionally challenged. ARB: SELECTION OF ARBITRATOR/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/

Ince, William K.; Sherman, Michael C. "Binational Panel Reviews Under Article 19 Of the U.S.-Canada Free Trade Agreement: A Novel Approach to International Dispute Resolution." Federal Bar News & Journal March, 1990 V.37 N.3 pp. 136-139 Evaluation of binational panel reviews as a method of ADR in resolving disputes arising from enforcement of each nation's anti-dumping and countervailing duty laws in international trade. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Izbiky, Julian M. "How to Use ADR Procedures in a Law Practice" Colorado Lawyer September, 1990 V.19 N.9 pp. 1799(2) The author advocates the initial consideration of ADR method when drafting commercial agreements or when beginning to manage a dispute. NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS/ TEACHING

Jacobius, Arleen Stibelman "Students Learn to Resolve Disputes Through Mediation." (California) The Los Angeles Daily Journal November 8, 1990 V.103 N.223 p. B1(1) The Los Angeles County Bar Association Dispute Resolution Service has sponsored a mediation program at local high schools which teaches young children the benefits of mediating a dispute. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: EDUCATION/ TEACHING

Jalili, Mahir "Amman Arab Convention on Commercial Arbitration" Journal of International Arbitration March, 1990 V.7 N.1 pp.

139-152 The author describes the Amman Arab Convention on Commercial Arbitration. The article also provides an English translation of the Amman Convention. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Jang, Han-Gak "Republic of Korea." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 321-330 This article describes the arbitration process for disputes under the Korean Arbitration Act. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ JUDICIAL PARTICIPATION

Jans, Richard C. "The Opinion Letter." (presented as a play). Arkansas Lawyer July, 1990 V.4 N.3 pp. 7(5) Characters in this article act out the negotiation of a contract. The article shows how a lawyer can negotiate and compromise and still fulfill ethical duties to his or her clients. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: CULTURAL CONSIDERATIONS/ NEG: PSYCH CONSIDERATIONS/ NEG: USE OF BARGAINING TEAMS/ NEG: USE OF AGENTS.

Janzen, Patricia L. "The Art of Collective Bargaining" The Advocate January, 1990 V.48 N.1 pp. 123(1) The reviewing author notes the textual simplicity of John Sanderson's book, The Art of Collective Bargaining, and recommends it to those who are not familiar with this form of negotiation. INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF

SOURCE: BOOK REVIEW/ ECONOMIC ADVANTAGES OF ADR/
ORGANIZATION POLICIES AND RULES

Jarvis, Robert M. "The Use of Civil RICO in International Arbitration: Some Thoughts After Shearson/American Express v. McMahon" The Transnational Lawyer February, 1988 - Spring V.1 N.1 pp. 1-40 This article focuses on the Supreme Court's decision in Shearson/American Express v. McMahon, holding that claims brought under civil provisions of the R.I.C.O. Act are arbitrable regardless of whether they arise in a domestic or international setting, with a practical examination of the ambiguities left by the Court's holding. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L/ RELATION TO ONGOING LITIGATION

Jarvis, Robert M. "U.S.S.R." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 353-360 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin; this article is a synopsis of maritime arbitration in the U.S.S.R. Included are brief discussions of the Maritime Arbitration Commission in Moscow, its authority, caseload, and procedures. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Jennings, Daniel F.; Allen, A. Dale, Jr. "Labor Arbitration Costs and Case Loads: A Longitudinal Analysis" Labor Law Journal February, 1990 V.41 N.2 pp. 80-88 This article compares the Allen Study on arbitration costs in 1975 with the author's recent study to determine whether the costs of arbitration are less than court litigation and concludes that, although arbitration costs have increased substantially since 1975, the cost is still less than court litigation. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: FEES AND FUNDING OF ARBITRATOR/ INST NATURE: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ ECONOMIC ADVANTAGES OF ADR

Jennings, Ken "Baseball on the Bargaining Bubble: The 1990 Labor-Management Negotiations" Labor Law Journal November, 1990 V.41 N.11 pp. 751-761 The article discusses the course of the 1990

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Jiang, Zhaodong "Federal Arbitration Law and State Court Proceedings" Loyola of Los Angeles Law Review January, 1990 V.23 N.2 pp. 473-533 This article examines the applicability of the United States Arbitration Act of 1925 to state court proceedings and concludes that when state and federal arbitration laws conflict, there is strong evidence to support federal preemption in most cases. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS

Johnson, Janette "Employment Labor and Pension Arbitration." (book review) Texas Bar Journal May, 1990 V.53 N.5 pp. 502(1) This article is a critique of a book entitled Employment Labor & Pension Arbitration, a treatise that deals with selection of arbitrator, pre-hearing preparation and arbitration in labor disputes. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB: CLIENT REP/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING

Johnson, Marie A. "Professionalism in the Practice of Law Before the Friend of the Court Referee." (Michigan) (Special Issue: Professionalism and Civility) Michigan Bar Journal September, 1990 V.69 N.9 pp. 920(3) Examination of "friends of the court" referees in dispute resolution - professionalism issues. INST NATURE: JUSTICE SYSTEM- SPECIAL MASTERS/ INST NATURE: JUSTICE SYSTEM-OTHER/ REQUIREMENTS: STATUTORY OR RULES/ AGREEMENT ON PROCEDURE/ COURT REFORM

Johnson, Ted "Divorce Mediation: How to Cut the Cost and Stress of Divorce." (book review) Texas Bar Journal April, 1990 V.53 N.4 pp. 357(1) This review describes the book as valuable and readable, and asserts that while written for a person contemplating divorce, the book also contains useful information on a growing area of the law for both the lawyer and the lay person. MED: RELATED PROCESSES-GENERAL/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Johnston, Bryan "More Tools for the Practice" Advocate (Idaho) March, 1990 V.33 N.3 pp. 24(2) The author gives a brief history of the growing popularity of alternative methods of dispute resolution and defines some of the options available today. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ COMPARISONS: HISTORICAL/ JUDICIAL PARTICIPATION/ LEGISLATION/ SELECTION OF APPROPRIATE PROCESS

Jones, Edith H. "Appeals of Arbitration Orders - Coming Out of the Serbonian Bog" South Texas Law Review May, 1990 V.31 N.2 pp. 361-379 The author describes how Section 15 of the Federal Arbitration Act of 1988 (FAA) eliminates procedural roadblocks to the use of arbitration as an alternative to conventional litigation, and discusses whether the goal of the FAA has been reached. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Jones, William R., Jr. "Do We Have a Plain, Speedy and Adequate Remedy?" Arizona Attorney December, 1990 V.27 N.4 pp. 25(4) This article reports the findings of a committee of 21 Arizona lawyers charged with the task of studying problems pertaining to abuses, costs, and delays in civil litigation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST

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NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER

Kaplan, Lawrence W. "Stay Out of Court." (Special Issue: Divorce a Handbook for Clients) Family Advocate June 22, 1990 - Summer V.13 N.1 pp. 8(3) The author explains the reasons why divorcing couples go to court and the perils of going to divorce court. He contends that divorcing parties should be civil, considerate, and cooperative in divorce proceedings. INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Karim, Ahmad; Diltz, David A. "Determinants of Mediation Success in the Iowa Public Sector" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 129-140 Attitudes toward the mediator and the parties' bargaining behavior predict the success of mediation for both union and management negotiators. Management negotiators also consider the economic characteristics of the negotiations. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PSYCH FACTORS/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Katz, Harry C. "Wage Developments in the Auto Industry: A Perspective on the Upcoming Negotiations." Labor Law Journal August, 1990 V.41 N.8 pp. 502-505 This article compares the effects of UAW/CAW negotiations from 1982 to 1990 among the auto companies and across the U.S. and Canada. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL

Katz, Lucy V. "The L'Ambiance Plaza Mediation: A Case Study in Judicial Settlement of Mass Torts" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 277-335 This article is a comparison of various ADR techniques as applied to a specific mass tort: the collapse of the L'Ambiance Plaza. The author analyzes the mediation that occurred in the case and concludes that the case could not have been handled as effectively with a jury trial or any other form of

ADR. NEG: W/ OR W/O ASSIST OF 3D-PARTY
NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/
MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED:
PUBLIC POLICY DIALOGUE/ MED: REP OF A CLIENT DURING
PROCESS/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
OTHER TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH
REPORT/ RELATION TO ONGOING LITIGATION/ SELECTION OF
APPROPRIATE PROCESS

Katz, Martin Z. N. "Stop the Judicial Gold Rush: Rent-a-Judge and Arbitration Programs are Harming the Judiciary." (California) California Lawyer January, 1988 V.8 N.1 pp. 10(1) This article expresses concern over the migration of judges from the public-sector judiciary to positions as private judges. ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ COURT REFORM/ QUALITY CONTROL/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Kaufman, Bruce E.; Martinez-Vazquez, Jorge; Cappelli, Peter "Voting for Wage Concessions: The Case of the 1982 GM-UAW Negotiations" Industrial and Labor Relations Review March 22, 1990, January 1988 V.41 N.2 pp. 183-194 Examines the 1982 GM-UAW negotiations in the context of concession bargaining in a multi-plant setting and presents voting patterns based on an empirical analysis. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Kelly, John Fleming "Arbitration: A Theme With Variations" Colorado Lawyer November, 1990 V.19 N.11 pp. 2217(3) Just because a dispute exists, it does not dictate which arbitration process will be used. The article explains that the parties involved in a dispute have the choice of adapting the rules they want to guide their arbitration, in addition to the freedom of shaping the arbitration process in a way which is most beneficial to their desires. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ ARB: FINAL OFFER ARB/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT

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OR AWARD/ REQUIREMENTS: STATUTORY OR RULES/
SELECTION OF APPROPRIATE PROCESS

Keppler, Mark J. "Nonunion Grievance Procedures: Union Avoidance Technique or Union Organizing Opportunity?" Labor Law Journal August, 1990 V.41 N.8 pp. 557-563 The author discusses the emergence of non-union grievance procedures as a way companies can avoid unions, and predicts the effect of non-union grievances on the future of organized labor. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Khalilian, Seyed Knalil "Controversial Theory of Frustration Before Iran-United States Claims Tribunal" Journal of International Arbitration June 22, 1990 V.7 N.3 pp. 5-24 The article describes a recent case before the tribunal, showing both how the tribunal works and analyzing the theories used in the case. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Khan, A. N. "Exclusivity of Collective Bargaining Arbitration in Canadian Academia" The Journal of Law and Education September 22, 1990 - Fall V.19 N.4 pp. 549-560 A discussion of Canadian law governing collective bargaining disputes. SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ COMPARISONS: CROSS-CULTURAL/ LEGISLATION

Kidder, Robert L.; Hostetler, John A. "Managing Ideologies: Harmony As Ideology in Amish and Japanese Societies" Law & Society Review December, 1990 V.24 N.4 pp. 895-922 An analysis of the cultural and ideological basis for anti-legal dispute resolution methods employed in Amish and Japanese cultures, claiming that the success of these methods rests largely on persistent self-promotion of their respective foundational ideologies, and not upon any purported superiority of legal information. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: FARM/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION

Kirkman-Liff, Bradford L. "Physician Payment and Cost-Containment Strategies in West Germany: Suggestions for Medicare Reform" Journal of Health Politics, Policy and Law March 22, 1990 - Spring V.15 N.1 pp. 69-99 The author makes numerous suggestions, from returning payment mechanisms to physician participation in Medicare. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ NON-BINDING RECOMMENDATION PROC- GENERAL/ SUBJ MATTER: GOV'T

Kleanthous, Valerie "Issues of Privilege and Confidentiality: Is the Mediator a Compellable Witness?" (Great Britain) Family Law October, 1990 V.20 pp. 384-385 The author discussed different views on the privilege of confidentiality in mediation when dealing with the interests of children during the divorce process. MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ CONFIDENTIALITY

Kleintop, William A.; Loewenberg, J. Joseph "Collective Bargaining, Compulsory Interest Arbitration and The Narcotic Effect: A Longitudinal Study of Delaware County, Pennsylvania" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 113-120 Compulsory arbitration can make the participants dependent on the procedure if award rates are as high as two for every three rounds of bargaining. At lower rates, there is no evidence of a "narcotic" effect. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Klenk, Timothy C. "Doing Our Part" Quarterly (Christian Legal Society) August, 1990 - Summer V.11 N.2 p. 2 The article describes the services and benefits of the Association of Christian Conciliation Services (ACCS), and supports a non-adversarial, non-advocacy approach to resolving disputes between and among Christians. MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES TO SETTLE

Knight, Joseph R. "Decision-Bargaining and the NLRA - A Plea For The Resurrection of First National Maintenance Corp." Texas Law Review February, 1990 V.68 N.3 pp. 625-648 This article

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discusses the Supreme Court's decision in First National Maintenance Corp. v. NLRB by focusing on the guidelines it set to determine the mandatory - permissive dichotomy that arises in actions brought under 8(d) of the NLRA. ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES

Knight, Thomas R. "The Modern Grievance Procedure in the United States.", (book review) Industrial and Labor Relations Review October, 1990 V.44 N.1 pp. 166-167 The author reviews The Modern Grievance Procedure in the United States, noting that the study the book is based on effectively analyzes grievance procedures between employers and unions. The author concludes that the book is required reading for both scholars and practitioners in the industrial relations field. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Kobren, Martin "Three Perspectives on Ground Lease Negotiations" Real Estate Law Journal June 22, 1990 - Summer V.19 N.1 pp. 40-60 Examines ground lease negotiations from the perspectives of tenant, landlord, and lender. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: CORPORATE

Kolb, Christopher T. "Arbitrating Investment Disputes" The Wisconsin Lawyer December, 1990 V.63 N.12 pp. 21(4) Kolb discusses the arbitration of investment disputes, including the binding nature of form clauses, the various forum choices available for arbitration, the limitations of arbitration, and differences between court and arbitral procedure. ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ROLE OF LAWYERS

Kolb, Deborah M.; Silbey, Susan S. "Enhancing the Capacity of Organizations to Deal with Disputes" Negotiation Journal October, 1990 V.6 N.4 pp. 297-304 The article examines the process of Dispute Systems Design to assess whether it prevents conflict in organizations. The article contends that prevention of conflict is a faulty premise, and that enhancing individuals' capacity to understand their disputes and discuss them in new ways is a more effective way of dealing with differences and diversity. NEG: W/ OR W/O ASSIST OF

3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF
3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O
ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ MED:
RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM
AND NEG/ SUBJ MATTER: CORPORATE/ SUBJ MATTER:
GENERAL/ SELECTION OF APPROPRIATE PROCESS

Kornblum, Guy O. "Voluntary Private Dispute Resolution: Complement or Competitor to Courts?" Defense Counsel Journal July, 1990 V.57 N.3 pp. 370-373 The author discusses the need for encouragement of private dispute resolution services because of speed, convenience, and lower cost. He disputes the notion that private dispute resolution will create a "brain drain" or a "two-tiered system of justice". MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR

Kowalski, Ronald E. "Collective Bargaining and Impasse Resolution in the Public Sector." (book review) Industrial and Labor Relations Review January, 1990 V.43 N.2 pp. 324(1) This article is a book review of Collective Bargaining and Impasse Resolution in the Public Sector. The author of the review states that the book is a good practical guide to collective bargaining and impasse resolution processes, but for the experienced practitioner, the book does not provide enough in-depth analysis. SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW

Kubota, Takeo "Japan: Tokyo." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 289-296 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a description of the two types of maritime arbitration that exist in Japan ("ad hoc" arbitration and institutional arbitration), including brief summaries of the procedures, benefits, and defects of the respective methods. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Kuntzman, Andrea M. "Incongruity in the Seventh Circuit: Do Federal Courts Have the Authority to Order Summary Jury Trials?" Ohio State

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Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 131-150 The author describes summary jury trials and discusses whether district courts have the power to manage their dockets by compelling litigants to attend nonbinding summary jury trials. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ LEGISLATION

Lambert, Wade; Noah, Timothy "Options Board Wins Ruling on Arbitration" The Wall Street Journal March 20, 1990 V.3 p. B8(W) Newspaper account of federal appeals court case ruling that the Chicago Board of Options Exchange is immune from damages stemming from alleged improprieties in arbitration proceedings. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: SECURITIES/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: LIABILITY & IMMUNITY/ 3RD PARTY: NEUTRALITY

Landau, Barbara "Mediation: An Option for Divorcing Families." (Canada) Advocates' Quarterly July, 1990 V.9 N.1 pp. 1-21 This article examines the increased use of mediation for divorcing families, analyzes federal and provincial legislation and the objectives of mediation, and discusses the current status and future of mediation in Canada. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Landau, Eve C. "Conciliation As a Mode or Settlement of Discrimination Complaints." (Australia) Adelaide Law Review August 22, 1990 V.11 N.3 pp. 257-284 This article presents an overview of the establishment, procedure, and evaluation of employment discrimination committees in Australia. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION

Lara, Rafael, Jr.; Kinberg, Edward J. "Hindsight - Litigation That Might Have Been Avoided" Army Lawyer March, 1990 V.22 pp. 31-33 Part of a continuing series discussing how specific problems can be solved in ways that avoid contract litigation. ARB: BINDING ARB-GENERAL/Black history/ SUBJ MATTER: GOV'T/ SUBJ MATTER:

**GOV'T CONTRACTS/ REQUIREMENTS: CONTRACTUAL
CLAUSES/ DISPUTE PREVENTION**

Lavan, Helen "Arbitration In the Public Sector: A Current Perspective"
Journal of Collective Negotiations in the Public Sector March 22, 1990 -
Spring V.19 N.2 pp. 153-163 This literature survey reveals the
many special arbitration issues that arise in the public sector, including the
essential nature of services and provisions for binding arbitration.
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
BINDING ARB- GENERAL/ SUBJ MATTER: GOV'T/ SUBJ
MATTER: LABOR-MANAGEMENT (UNIONS)

LaVaute, James R. "Alternative Dispute Resolution and Enforcement of
Statutory Rights." (Alternative Dispute Resolution) The Labor Lawyer
January, 1990 - Winter V.6 N.1 pp. 107-125 The article examines
three areas of statutory law - NLRA, Civil Rights Act, and ERISA - and
the impact of binding arbitration on the statutory rights involved. The
author concludes that most courts will not recognize a binding arbitration
agreement when the rights involved arise under the Civil Rights Act of
ERISA, but that the National Labor Relations Board does defer to such
agreements and that the courts should follow the NLRB's example to avoid
having employers involved in two proceedings with two potentially
different results. ARB: BINDING ARB- GENERAL/ ARB:
OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:
JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-
GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:
LABOR-DISCRIMINATION/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SETTLEMENT:
ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE
ISSUES/ COURT REFORM

Lawson, Leslie M.; Himelspace, Daniel C. "Court-Ordered Mediation
of Civil Cases." (Colorado) Colorado Lawyer June, 1990 V.19
N.6 pp. 1057(3) This article discusses the factors relevant for
consideration in determining what cases to submit to mediation in light of
the A.D.R. goals of reducing overcrowded dockets and reducing the time,
costs and inconvenience of dispute resolution. MED: RELATED
PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/
MED: OBTAINING AGREEMENT TO USE/ SUBJ MATTER:
GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST
NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ COURT
REFORM

Lazar, Fred "Services and the GATT: US Motives and a Blueprint for Negotiations" Journal of World Trade (Law-Economics-Public Policy) February, 1990 V.24 N.1 pp. 135-145 The author discusses the United States' interests in broadening the scope of GATT negotiations to include disputes involving the international trade in services. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: CULTURAL CONSIDERATIONS/ AGREEMENT ON PROCEDURE

Leap, Terry "Justice on the Job: Resolving Grievances in the Nonunion Workplace." (book review) Industrial and Labor Relations Review October, 1990 V.44 N.1 pp. 177-178 The author suggests this book provides an excellent discussion of nonunion grievance procedure in labor disputes and concludes it is a "must read" for those dealing with organizational due process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: BOOK REVIEW

Lecovin, Gerald J. Editorial. (divorce mediation: Canada) Canadian Journal of Family Law June, 1990 V.4 N.3 pp. 245-246 An editorial on the role of mediation and the role of lawyers in settling family disputes. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS

Lecuyer-Thieffry, Christine; Thieffry, Patrick "Negotiating Settlement of Disputes Provisions in International Business Contracts: Recent Developments in Arbitration and Other Processes" Business Lawyer February, 1990 V.45 N.2 pp. 577-623 An in depth analysis of the use of international commercial arbitration as an effective method of resolving international business disputes. Although the article does identify arbitration as the most effective ADR method in this context, it also discusses the drawbacks of the process and the means to avoid them. NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ COMPARISONS: CROSS-CULTURAL/ SUBJ MATTER: INT'L

Leedy, Lynda M. "The Health Care Quality Improvement Act and Physician Peer Review: Ingredients for Effective Dispute Resolution" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5

N.2 pp. 401-419 This note examines the role physician peer review committees play in identifying incompetent physicians. The note includes a discussion of an Oregon case that threatened the future of peer reviews, federal legislation that provides peer review committees with immunity, and actions taken on the state level to protect physicians who serve on peer review committees. INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: OTHER PROF MALPRACTICE/ QUALITY CONTROL

Leich, Marian Nash "Claims Settlement Agreements." (Contemporary Practice of the United States Relating to International Law) American Journal of International Law October, 1990 V.84 N.4 pp. 890-895 This article describes a settlement agreement between the governments of Iran and the United States regarding several small claims pending before the Iran-United States Claims Tribunal. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ AGREEMENT ON PROCEDURE

Leonard, Rex; Williams, Hampton; Boulter, William "Authors' Response - Reaction to Dr. Verdugo's Comment on Boulter, Leonard and Williams" (Teacher Unionism: Factors That Motivate Membership) Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 85-86 Authors response to comments made on the research involved in the above work and an additional summary of the results of their study. INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-GENERAL/ TEACHING

Levin, Anne S. "Labor Law - Review of Arbitration Awards in Public Sector Disputes" Temple Law Review June 22, 1990 - Summer V.63 N.2 437-450 Here the author opines that the Pennsylvania Supreme Court's holding that arbitrators are not allowed to consider mitigating circumstances when deciding whether an employer has "just cause" to discharge an employee will effectively undermine the ultimate purpose of arbitration - a speedy resolution. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:

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SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ
MATTER: EMPLOYMENT (NON-UNIONS)/ SETTLEMENT:
PRESSURES TO SETTLE

Levine, Marvin J. "Subcontracting and 'Privatization' or Work: Private and Public Sector Developments" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 275-282 This article explores the trend of subcontracting or farming out of work to outside firms to effect economic efficiencies, and how unions are attempting through negotiation to limit the adverse impact of this practice on the employment security of their members. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Lieberman, Michael "Overcoming the Presumption of Arbitrability of ADLA Claims: The Triumph of Substantive Over Procedural Values" University of Pennsylvania Law Review June, 1990 V.138 N.6 pp. 1617-1655 The author questions whether the presumption of arbitrability, extended by the Federal Arbitration Act, should encompass disputes arising under the ADEA; he concludes that the public policy of removing discrimination should overcome this presumption. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES

Lieblich, William C. "Determinations by International Tribunals of the Economic Value of Expropriated Enterprises" Journal of International Arbitration March, 1990 V.7 N.1 pp. 37-76 An analysis of how the discounted cash flow method has been and should be used by international tribunals to determine the "present value" of assets. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ FAIRNESS/ JUDICIAL PARTICIPATION

Lind, E. Allan; MacCoun, Robert J.; Ebener, Patricia A.; Felstiner, William L.F.; Hensler, Deborah R.; Resnik, Judith; Tyler, Tom R. "In the Eye of the Beholder: Tort Litigants' Evaluations of Their Experiences in the Civil Justice System" Law & Society Review November, 1990 V.24 N.4 pp. 953-996 A study of various tort litigants' reactions to various methods of dispute resolution, including trial,

judicial settlement conferences, bilateral settlement, and court-annexed arbitration, finding that these litigants preferred the arbitration and trial procedures because the litigants deemed them to be fairer and also gave the litigants' claims a more respectful treatment. ARB:

MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: OTHER TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ SETTLEMENT: PRESSURES TO SETTLE/ FAIRNESS

Linnerooth, Joanne "The Danube River Basin: Negotiating Settlements to Transboundary Environmental Issues" Natural Resources Journal June 22, 1990 - Summer V.30 N.3 pp. 629-660 This article describes the scientific and institutional complexities involved in negotiating agreements among the Danube riparian nations and suggests forms of cooperative action. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME

Lissy, William E. "Bargaining Over Drug Testing for Employees and Applicants" Supervision February, 1990 V.51 N.2 pp. 17(2) A summary of two rulings by the NLRB under the National Labor Relations Act that an employer with a union contract must bargain with the union over employee drug testing programs, but need not bargain over testing of applicants. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: OTHER TORTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ ORGANIZATION POLICIES AND RULES

Lissy, William E. "Withdrawal of Union Recognition Based on Hiring Strike Replacements" Supervision July, 1990 V.51 N.7 pp. 19(3) Discussion of federal appeals court decisions on whether an employer must show more than a workforce of strike replacements in order to rebut the union's majority status after a year of certification by the NLRB. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

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Lissy, William E. "Court's Deference to Arbitrator's Awards" Supervision September 17, 1990 V.52 N.2 pp. 20(2) This article reviews a Sixth Circuit appeals court holding which enforced a "bizarre" and "unusual" arbitrator's award due to the acknowledged flexibility of arbitrators to design awards and to the courts' restricted authority to overturn such awards. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ SELECTION OF APPROPRIATE PROCESS

Lissy, William E. "Employee's Constitutional Right to Remain Silent During Investigation" Supervision April, 1990 V.51 N.5 pp. 22(3) This article discusses an employee's rights to assert Fifth Amendment privileges in criminal proceedings and the employee's absence of rights to assert the same privileges in employment investigations by the management. INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS/ RELATION TO ONGOING LITIGATION

Lissy, William E. "Management-Sponsored Employees' Committee Not Illegal" Supervision April, 1990 V.51 N.4 pp. 17(3) The author supports employee committees for use in communicating with management but warns against violating NLRA guidelines. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Liu Shujian "The New Rules Governing Maritime Arbitration in China" Journal of Maritime Law and Commerce January, 1990 V.21 N.1 pp. 129-136 This article compares maritime arbitration to lawsuits, conciliation, mediation, and settlement through administrative authorities in China, and analyzes the affect of the 1989 revisions to the Rules of Arbitration in China. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ COMPARISONS: CROSS-CULTURAL

Livingston, Roger A. "Sentencing: A Call for Creative Lawyering" Utah Bar Journal May, 1990 V.3 N.5 pp. 31(2) . This article discusses creative techniques a lawyer may use in negotiating a criminal

sentence. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COOPERATIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL

Lloyd, Humphrey "How to Manage Complex International Arbitrations" Arbitration Journal September, 1990 V.45 N.3 pp. 60-66 By applying the concept of Management By Objective, the author provides ways in which a tribunal can facilitate complex international arbitration, and offers advice regarding the prehearing conference, expert witnesses, and other elements of the process. SUBJ MATTER: INT'L/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ SUBJ MATTER: CORPORATE/ JUDICIAL PARTICIPATION/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS

Lock, Ethan "Powell v. National Football League: The Eighth Circuit Sacks the National Football League Players Association" Denver University Law Review January, 1990 - Winter V.67 N.2 pp. 135-154 The article examines the conflict over free agency in professional football as represented in Powell v. NFL, 888 F.2d 559 (8th Cir. 1989). The author argues that courts do have the power to determine the players' rights under federal antitrust law and that this is not precluded by the existence of the collective bargaining process. SUBJ MATTER: ANTITRUST/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Lombardi, Robert "The Arbitration Provisions of the Retail Tenancies Act 1986." (Victoria) Law Institute Journal June, 1990 V.64 N.6 pp. 496-497 The author describes recent decisions of the Victorian Supreme Court applying the Retail Tenancies Act of 1986, which provides for the arbitration of landlord/tenant disputes in certain instances. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: CONSUMER/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: STATUTORY OR RULES

Lover, John Alternative Dispute Resolution for the Community: An Annotated Bibliography This text is an extensive annotated bibliography of recent articles that involve ADR issues. INST NATURE:

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GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE:
BIBLIOGRAPHY

Lowenfels, Lewis D.; Bromberg, Alan K. "Securities Industry Arbitrations: An Examination and Analysis" Albany Law Review June 22, 1989 - Summer V.53 N.4 pp. 755-876 This article is an examination of the use of arbitration in the securities industry, and includes historical and procedural analysis, as well as a discussion of post arbitration ruling alternatives. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ SUBJ MATTER: SECURITIES

Lowry, Houston Putnam "The United States Joins the Inter-American Arbitration Convention" Journal of International Arbitration September, 1990 V.7 N.3 pp. 83-90 The author discusses recent congressional legislation which makes the United States a party to the 1975 Inter-American Convention on International Commercial Arbitration and notes the benefits of predictability and enforceability which this long overdue legislation brings to U.S. and Latin American businessmen. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ LEGISLATION

Lowry, L. Randolph "Reconciliation: Both Sides Win" Quarterly (Christian Legal Society) June 22, 1990 - Summer V.11 N.2 pp. 4-8 An article asking lawyers to reframe their adversarial focus toward a practice of reconciliation and increased personal involvement. NEG: PSYCH CONSIDERATIONS/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: COUNSELING/ MED: PSYCH FACTORS/ INST NATURE: RELIGIOUS ORGANIZATIONS

Ludeke, J.I. "Arbitrator and Lawmaker" Australian Law Journal August, 1990 V.64 N.8 pp. 459-469 This author analyzes the dissenting judges' reasoning in the famous Australian case: The Queen v. Kirby; Ex Parte Boilermakers' Society of Australia (1955) 81 CAR 231. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ COMPARISONS: HISTORICAL

Luer, Hans-Jochem "German Court Decisions Interpreting and Implementing the New York Convention" Journal of International Arbitration March, 1990 V.7 N.1 pp. 127-138 An analysis of German court decisions since the 1961 adoption of the New York Convention construing and applying the Convention, noting a tendency by the courts to favor recognition of arbitration awards despite substantive German law that may potentially affect the validity of such awards.
ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE

Lutz, Robert E. "Resolving International Commercial Disputes; the Center for International Commercial Arbitration" Los Angeles Lawyer November, 1990 V.13 N.8 pp. 20-24 The author highlights the need for arbitration to settle international commercial disputes focusing on the Center for International Commercial Arbitration in Los Angeles and the various sources of law to facilitate arbitration. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Lyons, Elizabeth "Fired Workers Suffer Setback" Pennsylvania Law Journal-Reporter March 26, 1990 V.13 N.12 pp. 11 This article reports on a 3rd Circuit panel reversal of a ruling that a collective bargaining agreement between a union and a trucking company required a conciliation board's decision to be final. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION

MacDonnell, Lawrence J. "Natural Resources Dispute Resolution: An Overview." (Special Issue: Environmental Dispute Resolution) Natural Resources Journal March, 1990 - Winter V.28 N.1 pp. 5-19 This article provides a general overview of the different types of ADR in the natural resources arena and the growing number of disputes concerning natural resources. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: ENVIRONMENT/ SELECTION OF APPROPRIATE PROCESS

MacNaughton, Donald T. "Arbitrating International Disputes in Hong Kong" East Asian Executive Reports October 15, 1990 V.12 N.10

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pp. 9(5) This article suggests that Hong Kong would be a suitable forum for arbitration of international disputes because of its adoption of the UNCITRAL Model Law pertaining to international commercial arbitration.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L

Maggs, Peter B. "Arbitration In The Soviet Union" International Journal of Legal Information June 22, 1990 - Summer V.18 N.2 pp. 169-170 This book review compares William F. Butler's hardbound publication to its source material, Oceana's Looseleaf Series Soviet Commercial and Maritime Arbitration. Butler's book provides introductory material, a bibliography and better English transactions than Oceana, yet the latter is recommended for serious Soviet collections. SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Magliveras, Konstatin D. "The Arbitral Referee Procedure; A New Initiative of the International Chamber of Commerce" Journal of the Law Society of Scotland August, 1990 V.35 N.8 pp. 322-325 The author examines the rules for an arbitral referee procedure - the powers of the referee, his/her appointment, the proceedings, its costs, and the order. ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: SELECTION OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ SUBJ MATTER: INT'L

Malin, Martin H.; Stallworth, Lamont E. "Affirmative Action Issues and the Role of External Law in Labor Arbitration" Seton Hall Law Review September 22, 1990 - Fall V.20 N.4 pp. 745-785 This article examines the impact of Title VII of the 1964 Civil Rights Act on grievance arbitration in labor disputes, analyzes arbitration awards which involved affirmative action agreements, and compares such arbitration awards with similar case law. SUBJ MATTER: LABOR-DISCRIMINATION

Mallen, Ronald E.; Donohue, Edward F. "How Settling a Malpractice Claim Affects Lawyers' Insurance Coverage" Trial May, 1990 V.26 N.5 pp. 85-87 This article examines the economic and professional consequences an attorney may face in deciding whether to settle a malpractice claim. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: OTHER PROF MALPRACTICE/ SETTLEMENT: PRESSURES TO SETTLE/

**EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/
FAIRNESS**

Maniruzzaman, A.F.M. "International Arbitrator and Mandatory Public Law Rules in the Context of State Contracts: An Overview" Journal of International Arbitration September, 1990 V.7 N.3 pp. 53-64 The author discusses the applicability of relevant, mandatory public law when contracts are being arbitrated, and the author concludes that arbitrators should consider this law in order to bolster the popularity of arbitration and abide by public policy. ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

Mann, Lawrence C. "Mediation of Civil Cases: Neither Panacea Nor Anathema" (A Prescription for Changes in Procedural Rules) University of Detroit Law Review June 22, 1990 - Summer V.6 N.4 pp. 531-580 An analysis of alternative methods of dispute resolution aimed at facilitating attorney negotiation in encouraging the prompt and fair resolution of cases. The author contends that expectations relating to the putative benefits of these programs have been inflated. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: NEGOTIATED RULE-MAKING/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: PRESSURES TO SETTLE/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS/ JUDICIAL PARTICIPATION

Many, Thomas W.; Sloan, Charles A. "Management and Labor Perceptions of School Collective Bargaining" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 283-296 This study of collective bargaining in education indicates that schools are receptive to the application of collective bargaining principles, but that unions still see the process as more adversarial than do superintendents. SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Mark, Michael I. "Contract Award On Initial Proposals" Public Contract Law Journal 1990 - Winter V.19 N.2 pp. 252-330 This

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article discusses the advantages of a system of awarding government contracts on initial proposals. MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: REGULATORY/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Marks, Susan "Treaties, State Responsibility and Remedies" Cambridge Law Journal November, 1990 V.49 N.3 pp. 387-390 This comment describes the decision of the international arbitral tribunal concerning New Zealand's complaint that France had violated a 1986 agreement between the two countries stemming from the 1985 sinking of the "rainbow warrior" ship in New Zealand waters. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ COMPLIANCE ISSUES/ JUDICIAL PARTICIPATION

Marshall, Enid A. "Court's Discretion to Extend Time Under Arbitration Act 1950, s. 27, Notwithstanding Arbitrator's Contractual Discretion To Do So" Journal of Business Law September, 1990 pp. 428-430 The Court's discretion to extend time must consider the circumstances in which the delay took place, the length of the delay and the fault of the individual that caused the delay. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-GENERAL/ COURT REFORM/ JUDICIAL PARTICIPATION

Martinez, Ramona "Recognition and Enforcement of International Arbitral Awards Under the United Nations Convention of 1958: The "Refusal" Provisions" International Lawyer June 22, 1990 - Summer V. 24 N.2 pp. 487-518 The article discusses the United States' attitude towards enforcement of foreign arbitral awards in light of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The author believes the United States will rarely, if ever, invoke the provisions of the Convention rendering an award valueless. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-APPELLATE COURTS/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: HISTORICAL/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES/ JUDICIAL PARTICIPATION/ LEGISLATION/ TEACHING

Masters, Marick F.; Atkin, Robert S. "Public Policy, Bargaining Structure, and Free-Riding in the Federal Sector" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 97-112 This survey tries to explain free-riding among unionized federal sector employees by focusing on the heterogeneity of bargaining groups. NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Masterton, R. Peter "Pretrial Agreement Negotiations: A Defense Perspective" Army Lawyer April, 1990 pp. 28-36 Written from a defense attorney's point of view, this article looks at the obstacles faced by a criminal defense attorney in trying to reach a favorable pretrial settlement. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: USE OF AGENTS/ SUBJ MATTER: CRIMINAL/ ETHICS: GENERAL

Maute, Judith L. "Mediator Accountability: Responding to Fairness Concerns" Journal of Dispute Resolution 1990 V.1990 N.2 pp. 347 - 369 In this article, the author explores and comments on the proper balance of neutrality and accountability found in the successful mediator and some possible methods which can be used to ensure that the proper balance is preserved. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: GENERAL/ 3RD PARTY: SELECTION/ POWER IMBALANCE

May, Marlynn L.; Stengel, Daniel B. "Who Sues Their Doctors? How Patients Handle Medical Grievances" Law & Society Review February, 1990 V.24 N.1 pp. 105-120 This study seeks to explain the means used by patients to resolve possible malpractice situations by analyzing the patients' environments, the relationship of the patients to their physicians, the seriousness of the patients' injuries, and the patients' general knowledge of the health and legal professions. SUBJ MATTER: MEDICAL MALPRACTICE/ TYPE OF SOURCE: BIBLIOGRAPHY/ SETTLEMENT: PRESSURES TO SETTLE/ COMPARISONS: CROSS-CULTURAL

McAdoo, Barbara; Bakken, Larry "Local Government Use of Mediation for Resolution of Public Disputes" The Urban Lawyer March 22, 1990 - Spring V.22 N.2 pp. 179-195 The difficulty of resolving public disputes in local governments has led the authors to

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suggest that mediation be utilized to resolve public disputes more quickly and efficiently. The article describes the advantages and disadvantages of mediation and provides a brief overview of the mediation process.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY
DIALOGUE/ MED: TIMING/ MED: OPENING AND SETTING
GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ MED:
DRAFTING SETTLEMENT AGREEMENTS/ INST NATURE: GOV'T
ENTITIES/ SUBJ MATTER: GOV'T/ 3RD PARTY: SELECTION

McCabe, Douglas M. "Corporate Nonunion Grievance Procedures: Open Door Policies - A Procedural Analysis." Labor Law Journal August, 1990 V.41 N.8 pp. 551-557 This article presents a discussion of the effectiveness of an open-door policy as an alternative to litigation.

SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ
MATTER: EMPLOYMENT (NON-UNIONS)/ DISPUTE
PREVENTION/ POWER IMBALANCE

McCammon, Marlise; Cotton, John L. "Arbitration Decisions in Subcontracting Disputes" Industrial Relations January, 1990 - Winter V.29 N.1 pp. 135-144 This case study utilizes regression analysis to determine the effect of internal factors and external factors on arbitration decisions in disputes involving subcontracting.

ARB: BINDING ARB-
GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER:
LABOR-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH
REPORT/ FAIRNESS

McDonald, John W. "An Ambassador's View of Track Two Diplomacy" Arbitration Journal June, 1990 V.45 N.2 pp. 9-14

The author outlines a program of preparation and self-evaluation for foreign service personnel who practice diplomacy outside the confines of government policy directives ("Track Two" diplomacy).

NEG: W/ OR
W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR
W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/
INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T

McDorman, Ted L. "Canada and France Agree to Arbitration for the St. Pierre and Miqueion Boundary Dispute" International Journal of Estuarine and Coastal Law November 19, 1990 V.5 N.4 pp. 357-361

The author briefly discusses the forming of an international arbitral tribunal by Canada and France in order to resolve their overlapping boundary claims for St. Pierre and Miqueion islands.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:

SELECTION OF ARBITRATOR/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME

McIlory, James P. "Antidumping and Countervailing Duties Dispute Resolution Under the Canada-United States Free Trade Agreement - The First Year in Review" Canada-U.S. Business Law Review October, 1990 V.4 N.2 pp. 190-207 The author discusses the various requests for investigation submitted to the Binational Panel of review. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-NEGOTIATOR'S DILEMMA/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T

McKay, Robert B. "Ethical Considerations in Alternative Dispute Resolution" Arbitration Journal March, 1990 V.45 N.1 pp. 15-28 This article examines the ethical considerations applicable to a broad range of alternative dispute resolution techniques. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: PRACTICE OF LAW/ CONFIDENTIALITY/ ETHICS: GENERAL/ OMBUDSPERSON

McKenna, Ian B. "Pay Equity and Arbitral Restrictions Under the Public Service Employee Relations Act." (Canada) Alberta Law Review March 22, 1990 - Spring V.28 N.3 pp. 690-692 This article examines the failure of the Public Service Employee Relations Act to act on its policy of promoting arbitration for the resolution of collective-bargaining disputes. ARB: BINDING ARB- GENERAL/ ARB: FINAL OFFER ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: MANDATE TO USE

McMasters, James W. "Mediation: New Process for High School Disciplinary Expulsions" Northwestern University Law Review January, 1990 - Winter V.84 N.2 pp. 736-773 In a discussion of procedural protection that should be offered to expelled high school students, the author argues that expelled school students need increased procedural safeguards and contends that mediation would be an efficient and logical step between administrative action and a hearing. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND

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NEG/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER:
EDUCATION/ FAIRNESS

McMillion, Michael R. "Collective Bargaining in The Federal Sector: Has the Congressional Intent Been Fulfilled?" Military Law Review January, 1990 - Winter V.127 pp. 169-217 This article examines the process by which Congress granted federal employees the right to collective bargaining and explores the impact collective bargaining has had on governmental efficiency. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION

McMullen, John N.; Meyer, William G. "The Denver District Court's Proposed ADR Order: An Early Settlement Effort" Colorado Lawyer June, 1990 V.19 N.6 pp. 1060(1) To relieve settlement only after substantial litigation, the civil divisions of the Denver District Court may issue an order requiring the parties to settle the case, to engage in some type of alternative dispute resolution of the parties choosing, or to make a showing of good cause why the requirement of the order should be modified or the parties exempted from the order. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT: PRESSURES TO SETTLE/ COURT REFORM/ JUDICIAL PARTICIPATION/ LEGISLATION/ RELATION TO ONGOING LITIGATION

McMullen, Judith G. "The Handbook of Divorce Mediation." (book review) American Journal of Family Law September 2,, 1990 - Fall V.4 N.3 pp. 291-293 This article is a book review of The Handbook of Divorce Mediation, which deals with the theory and practice of using divorce mediation, and takes a close look at the questions that arise in this context. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: REP OF A CLIENT DURING PROCESS/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW

Medalie, Richard J. "The Libyan Producers' Agreement Arbitration: Developing Innovative Procedures in a Complex Multiparty Arbitration" Journal of International Arbitration March, 1990 V.7 N.2 pp. 7-31

This article includes a discussion of the complex procedural issues arising from the multi-party Libyan Producer's Agreement Arbitration by the Chairman of the Panel of Arbitrators. The article concludes with several lessons to be learned from such a complicated and prolonged ADR proceeding. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L

Medina, J. Michael "Economic Duress As a Means of Avoiding Settlement Agreements in Oklahoma" Oklahoma City University Law Review March 22, 1990 - Spring V.15 N.1 pp. 255-290 This article explores the defense of economic duress to avoid settlement agreements. The author concludes that while the defense is needed to protect innocent persons lacking bargaining power, the courts must develop a more stringent standard in order to avoid the undeserved use of the defense. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ FAIRNESS

Meyer, Jeffrey D. "The NFLPA's Arbitration Procedure: A Forum for Professional Football Players and Their Agents to Resolve Disputes" Ohio State Journal on Dispute Resolution September 22, 1990 - Fall V.6 N.1 pp. 107-128 The author discusses the history of the National Football League Players Association (NFLPA) and the arbitration decisions rendered under its provisions, and suggests that players and agents should model their behavior according to those decisions. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES

Mikula, Donna "Alternative Dispute Resolution" Catholic Lawyer January, 1990 - Winter V.33 N.1 pp. 63-69 This article is a speech describing the provisions that various Catholic dioceses have made toward establishing trustees to handle alternative dispute procedures for the Church; the speaker offers suggestions to those seeking to set up such a process. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ INST NATURE: RELIGIOUS ORGANIZATIONS/ QUALITY CONTROL

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Miller, Francis "Redefining Terms of Arbitration" (Great Britain) New Law Journal June 8, 1990 V.140 N.6459 pp. 327(2) The author describes the many different meanings of the term "arbitration", and proposes that a precise definition is needed. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: EDUCATION/ COMPARISONS: HISTORICAL

Miller, Howard S. "Hong Kong." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 281-288 An edited article from a symposium on the issue of maritime arbitration in the Pacific Rim Basin, this article is a summary of maritime arbitration in Hong Kong. Included are brief discussions of the development of the Hong Kong International Arbitration Centre, and the similarities and differences between English and Hong Kong laws regarding arbitration. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Miller, Lee Stuart "The NLRB and Rule Making: Determining Bargaining Units in the Health Care Industry" Labor Law Journal October, 1990 V.41 N.10 pp. 711-724 The author discusses the NLRB's attempt at rule-making on bargaining units in the health care industry, and concludes that the NLRB should employ rule-making in the areas of campaign rules and NLRA requirements, but should not go beyond this. SUBJ MATTER: HOSPITALS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION/ ORGANIZATION POLICIES AND RULES

Mills, Miriam K., ed. Conflict Resolution and Public Policy This collection of essays explores the contours of conflict resolution in many settings. The book is organized into five sections: environmental risk reduction, consumer disputes, contracts and the courts, negotiated rules making, and the use of computers for resolving differences. The costs and benefits of each approach are explained with a view towards influencing public policy./ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY/ 3RD PARTY: PRACTICE OF LAW/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Mills, William P., III "State International Arbitration Statutes and the U.S. Arbitration Act: Unifying the Availability of Interim Relief" Fordham International Law Journal June 22, 1990 - Summer V.13 N.4 pp. 604-648 This article discusses the problem with the international arbitration law in the United States because it is not uniform on the issue of interim relief nor is it in accord with international consensus. The author suggests that Congress and the various state legislatures should create a consistent international arbitration law of the United States dealing with interim relief. ARB: BINDING ARB-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION/ LEGISLATION

Milne, Ann L. "Family Law from a Family System Perspective - The Binary Equation" Pacific Law Journal July, 1990 V.21 N.4 pp. 933-951 The author stresses that in the area of family law there are sociological as well as legal issues and contends that a Family Court system, which utilizes procedural alternative dispute resolution techniques, will contribute to balancing both types of issues. MED: RELATED PROCESSES-GENERAL/ MED: PRETRIAL CONF/ MED: PSYCH FACTORS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ JUDICIAL PARTICIPATION

Milner, Neal "Alternative Dispute Resolution: Melting the Lances and Dismounting the Steeds." (book review) The Legal Studies Forum March 22, 1990 - Spring V.14 N.2 pp. 207-211 The author finds the reviewed book to be a good examination of the benefits of ADR, but notes some limitations. MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Moccia, Lisa "Employment Law - Age Discrimination - Judicial Resolution of Claims Arising Under the Age Discrimination in Employment Act is not Precluded by a Prospective Agreement to Arbitrate" Seton Hall Law Review September 22, 1990 - Fall V.20 N.4 pp. 911-934 This article addresses the court's willingness to hear claims arising under the Age Discrimination in Employment Act, even though the parties had signed an employment agreement requiring arbitration. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-DISCRIMINATION

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Moore, Leslie William "Is Securities Arbitration Finally Above Suspicion?" The Kentucky Law Journal July, 1990 V.78 N.4 pp. 830-864 This comment critically examines the Supreme Court's holding in Rodriguez de Quijas v. Shearson/American Express, Inc. to enforce pre-dispute agreements to arbitrate in securities transactions; the author concludes arbitration of securities disputes is fair and manageable, but its image must improve. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

Morgan, Anne C. "Thwarting Judicial Power to Order Summary Jury Trials in Federal District Court: Strandell v. Jackson County" Case Western Reserve Law Review V.40 p. 491 The author disagrees with a Seventh Circuit decision holding that a district court judge is not authorized to order summary jury trials. NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS: MANDATE TO USE/ JUDICIAL PARTICIPATION

Morsdorf, Juliana "Effective Dispute Resolution for the International Commercial Lawyer." (book review) International Tax & Business Lawyer June 22, 1990 - Summer V.8 N.1 pp. 145-152 The author highly recommends the book, which is a collection of papers presented at an Austrian Conference on international dispute resolution which address how to foster amicable solutions to disputes, describe the litigation process, and discuss the enforcement of judgements in various countries. The papers also address pre-trial considerations and remedies, discovery procedures, arbitration and litigation, government litigation and post-trial considerations. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ CONFERENCE PROCEEDINGS/ SELECTION OF APPROPRIATE PROCESS/ SUBPOENA AND DISCOVERY

Moser, Michael J. "International Commercial Arbitration in the People's Republic of China: A Primer" International Business Lawyer June, 1990 V.17 N.6 pp. 254(4) The author discusses the salient features of the China International Economic and Trade Arbitration Commission (CIETAC) arbitration practice and procedure and how the new CIETAC

rules help internationalize China's arbitration law and practice. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

Muller, Frank "Construction Arbitration" Arbitration Journal March, 1989 V.44 N.1 pp. 54-55 This book is considered a detailed arbitration manual that will be useful to all parties involved in arbitration relating to the Construction Industry. TYPE OF SOURCE: BOOK REVIEW/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CONSTRUCTION

Mulligan, Thomas P. "Examining Non-Administered Arbitration: New Rules Outline the Latest in ADR Techniques" Corporate Counsel's Quarterly April, 1990 V.6 N.2 pp. 43-49 The author introduces the concept of non-administered arbitration by examining and explaining the 19 rules that govern its application. Additionally, the author provides a contact person at the Center for Public Resources for those seeking additional information. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: GENERAL/ 3RD PARTY: SELECTION/ AGREEMENT ON PROCEDURE

Murray, John S. "Legal Negotiation: Theory and Applications." (book review) Journal of Legal Education September, 1990 V.40 N.3 pp. 393-396 This review of Donald G. Gifford's book criticizes it as placing too great an emphasis on individual stages of negotiation without an integration of overarching theoretical concepts. The review also praises the book as focusing on clients and detailed discussion of specific techniques. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ ROLE OF LAWYERS/ SELECTION OF APPROPRIATE PROCESS/ TEACHING

Nagel, Stuart S. "Computer-Aided Negotiation" Colorado Lawyer January, 1990 V.19 N.1 pp. 63(4) The article discusses how lawyer negotiation can be aided by multi-criteria decision-making software by helping a lawyer determine whether to accept a settlement or go to trial. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG:

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TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG: EVAL OF OPTIONS AND OFFERS/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ ECONOMIC ADVANTAGES OF ADR

Nagel, Stuart S.; Barczyk, Casimir "Can Computers Aid the Dispute Resolution Process?" Judicature March 22, 1990 V.71 N.5 pp. 253(3) This article discusses a new micro computer program called Policy/Goal Percentage (P/G%) and concludes that the P/G% program would be useful in assisting dispute resolution, particularly by clarifying the effects of various proposed solutions to a specific problem. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: GENERAL

Naom, Horacio A. Grigera "International Arbitration Law." (book review) International Business Lawyer September, 1990 V.18 N.8 pp. 382(2) The book contains encyclopedic and updated information with analysis of different aspects of international arbitration. ARB: PRIVATE JUDGING/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Naughton, Philip "Alternative Forms of Dispute Resolution - Their Strengths and Weaknesses." (Great Britain) Construction Law Journal November, 1990 - Summer V.6 N.3 pp. 195-206 The author discusses alternative forms of dispute resolution, in particular mediation and mini-trials, and discusses their strengths and weaknesses. MED: RELATED PROCESSES-GENERAL/ MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Nebraska Department of Agriculture Farm Mediation and Debt Restructuring in Nebraska: A Guide for Farmers and Ranchers This guide is designed to show farmers and ranchers how to resolve foreclosure, replevin, or other debt problems through mediation programs, and the application of new laws and rules. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OPENING AND SETTING GUIDELINES/ SUBJ MATTER: FARM

Nelson, Nels E. "Factfinders View the Factfinding Process" Journal of Collective Negotiations in the Public Sector March 22, 1990 - Spring V.19 N.2 pp. 141-151 The author's survey results show a general consensus among fact finders in public sector mediation as to what their role is, but disagreement as to what basis they can appropriately use for their recommendations. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Nemetz, N.T. "Commercial Dispute Resolution" The Advocate January, 1990 V.48 N.1 pp. 122-123 Commercial Dispute Resolution, by Paul Emond is noted by the reviewing author for its use as a preliminary research reference tool. SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW/ REQUIREMENTS: STATUTORY OR RULES/ PROVISIONAL REMEDIES

Neslund, Nancy "Dispute Resolution: A Matrix of Mechanisms" Journal of Dispute Resolution 1990 V.1990 N.2 pp. 217-266 The author reviews the spectrum of dispute resolution mechanisms, establishing a framework for comparative evaluation of the various mechanisms in light of their respective characteristics and goals. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: NEGOTIATED RULE-MAKING/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: GOV'T ENTITIES/ TYPE OF SOURCE: BIBLIOGRAPHY/ SELECTION OF APPROPRIATE PROCESS

Neus, Michael C. "Litigating in Spain: Considerations for Foreign Practitioners Including International Judicial Assistance, Enforcement of Foreign Judgments, Bankruptcy, Arbitration and Other Civil Proceedings" (book review) Law and Policy in International Business June 22, 1990 - Summer V.21 N.3 pp. 473-479 The reviewer finds the book by Bernado M. Cremades and Eduordo G. Cabiedes to be a primer on Spanish Civil litigation, providing general advice on understanding the Spanish civil law system. ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

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Newman, Glenn "The Summary Jury Trial as a Method of Dispute Resolution in the Federal Courts" University of Illinois Law Review January, 1990 - Winter 1990 V.1 pp. 177-205 The author outlines the overcrowded docket problems of federal courts and the use of ADR techniques to deal with overcrowding. The article focuses on arguments for and against the use of mandatory summary jury trials and the authority of judges to compel an attorney's appearance at such proceedings, concluding that the use of such trials should continue. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM

Newman, Lawrence W. "The 1989 Guide to International Arbitration and Arbitrators." International Lawyer December 22, 1990 - Winter V.24 N.4 pp. 1177-1180 The book review discusses The 1989 Guide to International Arbitration and Arbitrators, which includes both rules and Code of Ethics of Arbitration, as well as lists and biographies of different arbitrators in the field of international arbitration. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Nober, Roger "Federal Highways and Environmental Litigation: Toward a Theory of Public Choice and Administrative Reaction" Harvard Journal on Legislation January, 1990 - Winter 27 1 pp. 229-277 This article proposes the amendment of statutes that currently help environmental activists to litigate opposed highway construction. The author asserts that the statutes should be amended to encourage negotiation and/or mediation before litigation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY

Nocker, Thomas; French, Gregory "Estoppel: What's the Government's Word Worth? An Analysis of German Law, Common Law Jurisdictions, and of the Practice of International Arbitral Tribunals" International Lawyer June 22, 1990 - Summer V.24 N.2 pp.

409-437 This study investigates the state of law in Germany, England, Canada, the United States, and Australia regarding the doctrine of estoppel and concludes that arbitral tribunals, in general, are more willing to apply the doctrine of estoppel against governments or their agencies than are national courts. Therefore it will be advantageous to include an arbitration agreement in an investment contract. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PRIVATE JUDGING/ INST NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ JUDICIAL PARTICIPATION/ PROVISIONAL REMEDIES/ TEACHING

Nolan-Haley, Jacqueline "Donovan Leisure Newton and Irvine ADR Practice Book." (book review) Arbitration Journal September, 1990 V.45 N.3 pp. 50-52 This is a book review of a collection of articles by ADR practitioners and scholars. The book attempts to inform practicing lawyers of the available methods of dispute resolution and the appropriate methods for particular cases. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ NON-BINDING RECOMMENDATION PROC-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL

Northrup, Herbert R. "The Railway Labor Act - Time for Repeal?" (Symposium: Labor & Employment Law in the 1990's) Harvard Journal of Law & Public Policy September 22, 1990 - Spring V.13 N.2 pp. 441-515 In a critical discussion of the Railway Labor Act, the author concludes the Act has inhibited rather than helped dispute resolution and should be changed to reflect deregulated industry. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: USE OF BARGAINING TEAMS/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Norton, Eleanor Holmes "Justice and Efficiency in Dispute Systems" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 207-230 This article discusses the limitations and obsolescence of many traditional dispute systems and questions the idea that

nonfunctional formal systems render justice. The article concludes with a plea for new ways to evaluate whether formal and informal systems render justice.

NEG: W/ OR W/O ASSIST OF 3D-PARTY
NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/
NON-BINDING RECOMMENDATION PROC- GENERAL/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING
ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE:
JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE
SYSTEM-OTHER .

O'Reilly, Timothy Patrick "Alternative Dispute Resolution Under the NLRA: Devaluation of the Strike." The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 133-143 The author notes that the amount of strike activity has declined because of court decisions limiting those activities, and that employers and employees have turned to voluntary mediation as a way to settle their disputes.

MED: RELATED
PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ ARB: BINDING ARB- GENERAL/ ARB: FINAL
OFFER ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ
MATTER: LABOR-MANAGEMENT (UNIONS)/ SELECTION OF
APPROPRIATE PROCESS

O'Toole, Daniel K. "The Catch-22 of Mandatory Summary Jury Trials" Journal of Dispute Resolution January, 1990 V.1990 N.2 pp. 135-147 The author explains the problems surrounding mandatory summary jury trials, and argues that unwilling participants should not be forced to participate.

NON-BINDING RECOMMENDATION PROC-
SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM-
GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS:
MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/
COMPLIANCE ISSUES/ EFFECT OF PROCESS ON
NON-PARTICIPATORY PARTIES

Ogawa, Hideki "Proposed Draft of Japan's New Arbitration Law" Journal of International Arbitration June, 1990 V.7 N.2 pp. 33-41

The author compares Japan's proposed new arbitration law with the Uncitral Model Law and gives reasons why the draft law should be adopted.

ARB: BINDING ARB- GENERAL/ INST NATURE:
GENERAL/ SUBJ MATTER: INT'L/ \ COMPARISONS:
CROSS-CULTURAL/ COURT REFORM/ LEGISLATION

Ogus, Anthony; Jones-Lee, Michael; Cole, William; McCarthy, Peter "Evaluating Alternative Dispute Resolution: Measuring the Impact of

Family Conciliation on Costs." Modern Law Review January, 1990 V.53 N.1 pp. 57-74 This report examines the economic efficiency of the ADR technique of family conciliation; the report concludes that although conciliation will increase social costs, it may be justified on the basis of its effectiveness. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

Ominsky, Harris "Negotiating Your Law Firm's Lease" Law Practice Management March, 1990 V.16 N.2 pp. 54(4) When renting office space, many firms fail to negotiate leases that include options to extend the rental period. This article briefly describes factors to consider in negotiating leases, including the possibility of arbitration in determining fair market value rents for the renewal period. ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE

Orkin, Neal; Orova, Steven "Meyers Industries and Its Effects on Nonunion Employees' Rights in the Workplace" Labor Law Journal September, 1990 V.41 N.9 pp. 659-666 This article explores the effect of Prill v. NLRB, 733 F.2d 941, which found that nonunion employees cannot seek protection from the National Labor Relations Board unless there is proof that their actions were supported and discussed with at least one other employee. The article also discusses the alternative methods of resolution available to protect employees from retaliatory discharge. SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Owen, Stephen "The Expanding Role of The Ombudsman in the Administrative State." (Canada) (Special Issue on Administrative Law) University of Toronto Law Journal June 22, 1990 - Summer V.40 N.3 pp. 670-686 An examination of remedial and preventative responses to the potential unfair treatment of individuals by the government. INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY/ OMBUDSPERSON/ FAIRNESS/ ECONOMIC ADVANTAGES OF ADR

Papaioannou, Athanassios "The Employer's Duty to Bargain Over Layoffs in the Airline Industry: How the Courts Have Distorted the Railway Labor Act" Journal of Air Law and Commerce June 22, 1990

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- Summer V.55 N.4 pp. 939-1008 The author explores the Railway Labor Act in connection with its application to airline employees in an effort to highlight the misapplication by the courts in the area of employee layoffs. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES

Parkinson, Lisa "FMA Developments, December 1988-1989." (Family Mediators Association) (Great Britain) Family Law January, 1990 V.20 pp. 10-11 A description of the recently organized Family Mediators Association (FMA) including an explanation of member training, the nature of the association's practice area, and the association's fee arrangements. MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: SELECTION/ 3RD PARTY: TRAINING

Parks, Jim "Just Saying No: Avoiding Predispute Agreements to Arbitrate in Securities Cases" Journal of Dispute Resolution January, 1990 V.1990 N.1 pp. 117-134 This article considers securities arbitration, the advisability of arbitration in the securities context, and forms of relief available to the securities plaintiff seeking to avoid arbitration. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS

Passer, Steven "Commercial Arbitration Between American and Japanese Businesses: A Japanese Perspective" University of Kansas Law Review September 22, 1990 - Fall V.39 N.1 pp. 223-243 The author explores international arbitration processes and considerations from a Japanese perspective. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ ARB: PRIVATE JUDGING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ 3RD PARTY: NEUTRALITY/ COMPARISONS: CROSS-CULTURAL

Paulsson, Jan "A Better Mousetrap: 1990 ICC Rules for a Prearbitral Referee Procedure" International Business Lawyer May, 1990 V.18 N.5 pp. 214(6) This article discusses the pre-arbitral referee procedure, which is the International Chamber of Commerce's solution to the need for immediate relief in international disputes. ARB: DRAFTING ARB

AGREEMENT/ SUBJ MATTER: INT'L/ AGREEMENT ON
PROCEDURE/ PROVISIONAL REMEDIES/ SELECTION OF
APPROPRIATE PROCESS

Paulsson, Jan "International Commercial Arbitration in Belgium: A Handbook" Lloyds Maritime and Commercial Law Quarterly August, 1990 V.3 pp. 429-431 This review states that the handbook's appeal lies in the incorporation of the 1985 reforms, the discussion on creating jurisdiction in Belgium, and the validity of arbitration agreements.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST
NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/
TYPE OF SOURCE: BOOK REVIEW

Pedley, David M. "Processes of International Negotiations." (book review) Emory International Law Review March 22, 1990 - Spring V.4 N.1 pp. 247-248 Review of a book consisting of various essays written by experts in the area of contemporary international negotiations. The writer of the review believes the book will be very useful to anyone interested in this particular field. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ TEACHING

Perline, Martin M.; McDougall, Gerald S. "The Mandatory - Permissive Distinction: A Simulated Case Study" Labor Law Journal October, 1990 V.41 N.10 pp. 706-710 This article discusses a study conducted to determine the effects that "mandatory" versus "permissive" distinctions have on the bargaining process; the study concluded that unions are less likely to achieve a favorable settlement when the legal status of an issue is labeled permissive. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ POWER IMBALANCE

Pew, Curtis E.; Jarvis, Robert M. "Pre-award Attachment in International Arbitration: The Law in New York" Journal of International Arbitration September, 1990 V.7 N.3 pp. 31-42 The authors discuss provisional remedies in aid of international commercial arbitration and conclude that New York law on pre-award attachments is in a state of flux. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ PROVISIONAL REMEDIES

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Phillips, Barbara Ashley "Foley' Helped Employment Mediation"
The Los Angeles Daily Journal January 23, 1990 V.103 N.7 p. 6
Author asserts that the lasting effect of Foley v. Interactive Data Corp.,
765 P.2d 373 (Cal. 1988), will be an increase in alternative resolution for
wrongful termination claims. NEG: TACTICS, STRATEGIES AND
TECHNIQUES- COOP TECHNIQUES/ MED: RELATED
PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/
NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER:
LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/
SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Phillips, Nicholas "Arbitration and Conciliation Under the UNCITRAL
Rules: A Textual Analysis." (book review) Lloyds Maritime and
Commercial Law Quarterly May, 1990 V.2 pp. 268-269 The
reviewed book on the United Nations Commission on International Trade
Law's project on international commercial arbitration is a historical
reference on the rules promulgated by UNCITRAL on this project.
ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T
ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ
MATTER: MARITIME/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL/ FISS

Pollack, Daniel; Harbert, Lynne "Leading The Way in Dispute
Resolution: The Ohio Model" Arbitration Journal June, 1990 V.45
N.2 pp. 56-60 A discussion of the initiation, composition, and purpose
of the Ohio Commission on Dispute Resolution and Conflict Management.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/
SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: STATUTORY
OR RULES/ LEGISLATION

Poltz, Judith I. "Bargaining Obligations in the Construction Industry: An
Outline of Recent Developments" Labor Law Journal September, 1990
V.41 N.9 pp. 649-658 This article examines recent developments in
law regulating bargaining obligations in the construction industry with
particular focus on the NLRB's decision in John Deklewa & Sons, which
represented an abandoning of the principles of conversion and merger and
introduced a new framework for the analysis of bargaining obligations.
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/
SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER:

LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT
(UNIONS)

Popper, Seth Michael "Judicial Review in Section 301 Labor Arbitration Prospective Claims: The Effect of Communications Workers" Fordham Law Review May, 1990 V.58 N.6 pp. 1289-1307
Examination of AT&T Technologies, Inc. v. Communications Workers, 475 U.S. 674 (1980), and the role of the judiciary in labor arbitrations, with a specific focus on "material factual identity" doctrine. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES

Posthuma, Richard "An Analysis of the Risks of Arbitration" Government Union Review March 22, 1990 - Spring V.11 N.2 pp. 42-55
Municipalities involved in collective bargaining disputes between police and fire unions are forced with the decision to settle or arbitrate. ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SETTLEMENT: PRESSURES TO SETTLE

Potter, R. Clifford "Your Ethical and Fiduciary Obligations in the Settlement of Disputes" ALI-ABA Course Materials Journal December, 1990 V.15 N.3 pp. 91-108
This article outlines the legally enforceable obligations and potential liability of advice given by attorneys in the settlement of disputes. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/ ROLE OF LAWYERS

Potter, Richard B. "ADR and Computer Contracts" Alternatives to the High Cost of Litigation June, 1990 V.8 N.6 pp. 99-101
The author sets forth arguments for implementation of ADR clauses in contracts used by computer vendors, and he concludes that when properly selected beforehand, ADR techniques are the best method for resolving disputes. MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ DISPUTE PREVENTION

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Pressman, Steven "Public Issues and Private Judges; the Lines Between Rent-A-Judge and the Real Thing Keeps Getting Fuzzier." (California) California Lawyer November, 1990 V.10 N.11 pp. 17(2) The article discusses the need in California for the business of rent-a-judges due to the tremendous backlog in the public court system which causes unfair settlements because parties settle their disputes out of sheer frustration instead of guided principles of law. ARB: BINDING ARB-GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: GENERAL/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: SELECTION/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Price, David "Means and Ends" Family Law August, 1990 V.20 pp. 239(1) The author discusses the need for conciliation services to be made available throughout the court procedure involving family disputes. The Croydon County Court provide these services. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COURT REFORM/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

Priscoli, Dr. Jerome Delli "Advisory Arbitration Offers Another Option For Lawyers Seeking A Private ADR Process" Alternatives to the High Cost of Litigation April, 1990 V.8 N.4 p. 59 Non-Binding arbitration is another alternative dispute resolution option available to counsel who reject a minitrial or other ADR processes. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: GOV'T CONTRACTS/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Pryles, Michael C. "The 1989 Guide to International Arbitration and Arbitrators" Australian Law Journal September, 1990 V.64 N.9 p. 605 This article is a favorable review of Columbia University's annual guide to international arbitration and arbitrators while laying out the format and focus of these annual guides. INST NATURE: GOV'T

ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: BOOK REVIEW

Pryles, Michael C. "Australia." (Maritime Arbitration in the Asian Century) Tulane Maritime Law Journal March 22, 1990 - Spring V.14 N.2 pp. 263-272 This article discusses Australia in light of the growth in maritime arbitration in the Pacific Rim Basin. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME

Pryles, Michael C. "Legal Issues Concerning International Arbitrations" Australian Law Journal August, 1990 V.64 N.8 pp. 470-492 This article addresses the complex and technical legal issues that arise in international arbitration such as choice of law, enforcement of arbitration agreements and foreign arbitral awards. ARB: BINDING ARB-GENERAL/ ARB: PRIVATE JUDGING/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE/ COMPLIANCE ISSUES/ ORGANIZATION POLICIES AND RULES/ INST NATURE: GOV'T ENTITIES/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Quinn, Thomas J.; Rosenbaum, Mark; McPherson, Donald S. "Grievance Mediation and Grievance Negotiation Skills; Building Collaborative Relationships" Labor Law Journal November, 1990 V.41 N.11 pp. 762-772 The author suggests that grievance-mediation, if used properly, can strengthen labor relations and reserve for arbitration only those issues for which arbitration is most efficient. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL

Rabban, David M. "Can American Labor Law Accommodate Collective Bargaining by Professional Employees?" Yale Law Journal January, 1990 V.99 N.4 pp. 689-758 This article examines the relatively recent increases in unionized professionals. Through exploration of collective bargaining, exclusive representation, and company domination, the author suggests a system of labor law that is conducive to professional values. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

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Rabenold, Keith M. "Lawyer-Versus-Lawyer Litigation: Is There an Alternative?" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 421-436 An examination of alternative dispute resolution programs designed to facilitate intra-attorney disputes. The author concludes programs such as those offered in Pennsylvania and New York are effective alternatives to litigation. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR

Rammelt, David A. "'Inherent Power' and Rule 16: How Far Can a Federal Court Push the Litigant Toward Settlement" Indiana Law Journal September 22, 1990 - Fall V.65 N.4 pp. 965-1002 This article examines the federal courts' attempts to reduce their dockets through the use of Alternative Dispute Resolution techniques, especially the summary jury trial. The author concludes federal judges should not impose mandatory, and ad hoc procedures designed to provoke settlement without the consent of the litigants. MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM/ FAIRNESS/ JUDICIAL PARTICIPATION

Rawson, Dale V. "A Comparison of the Statutory Framework and Perceived Role of the Superintendent in Teacher Negotiations in the States of Kansas and Nebraska" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 297-303 This article analyzes survey results to test whether school superintendents perceived their role in labor negotiations differently depending on the degree to which the statutory framework for negotiation was management-oriented. The study showed no patterns, although superintendents become more management-oriented as the size of their schools increases. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Ready, Kathryn J. "Is Pattern Bargaining Dead?" Industrial and Labor Relations Review January, 1990 V.43 N.2 pp. 272-279 The article

challenges the common belief that pattern bargaining largely ended in the 1980s, and offers evidence to refute a widely quoted study by Audrey Freedman.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ
MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE:
CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL

Reder, Margo E.K. "Securities Law and Arbitration: The Enforceability of Predispute Arbitration Clauses in Broker-Customer Agreements"

Columbia Business Law Review January, 1990 - Winter 1990 V.1
pp. 91-117 This paper discusses the evolution of arbitration in the securities market up to and including the current practice of predispute arbitration agreements, in light of the statutory remedies.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING
AGREEMENT TO ARB/ INST NATURE: GENERAL/ SUBJ
MATTER: GENERAL/ SUBJ MATTER: CONSUMER/ SUBJ
MATTER: CORPORATE/ SUBJ MATTER: SECURITIES/
AGREEMENT ON PROCEDURE/ LEGISLATION

Resnick, Lauren J. "Mediating Affordable Housing Disputes in Massachusetts: Optimal Intervention Points" Arbitration Journal June, 1990 V.45 N.2 pp. 15-31 The Affordable Housing Mediation Program in Massachusetts has been very successful in resolving disputes between developers and towns over the subsidized construction of middle income housing. This article proposes an earlier intervention point for Massachusetts housing mediation.

MED: RELATED
PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED:
OTHER JUDICIAL SETTLEMENT DEVICES/ MED: TIMING/ MED:
FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS

Richards, Martin "Divorce Cambridge Style; New Developments in Conciliation." (Great Britain) Family Law November, 1990 V.20

pp. 436-438 The author discusses the comprehensive conciliation services offered by the Cambridge Family and Divorce Center which aid both parents and their children in dealing with divorce.

MED: RELATED
PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ MED: TIMING/ MED: OBTAINING
AGREEMENT TO USE/ MED: ENCOURAGING COMM AND NEG/
MED: COUNSELING/ MED: PSYCH FACTORS/ MED: REP OF A
CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC
REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Richards, Martin "Including Children in Conciliation - Some Problems and Issues" Family Law October, 1990 V.20 pp. 382(1) The author examines the role of children in the conciliation process, and concludes that the sensitive and emotional nature of the process requires careful consideration by all parties as to the extent and need of the child's involvement. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ FAIRNESS/ SELECTION OF APPROPRIATE PROCESS

Richardson, J. Sue "Mediation: The Florida Legislature Grants Judicial Immunity to Court-Appointed Mediators" Florida State University Law Review March 22, 1990 - Spring V.17 N.3 pp. 623-647 A discussion of the historical background of mediation and judicial immunity, concentrating on the significance of the 1989 Florida legislative action granting judicial immunity to court-appointed mediators and arbitrators. MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ 3RD PARTY: LIABILITY & IMMUNITY/ LEGISLATION

Rieders, Clifford A. "Donovan Leisure Newton and Irvine ADR Practice Book." (book review) Trial October, 1990 V.26 N.10 pp. 81-82 The reviewer describes this book as a useful primer on currently available ADR methods, yet acknowledges that it has considerable weaknesses, one being that it "resembles a cheering manual for the [(American Arbitration Association)] AAA." NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Riley, William L. "The New Rules for Arbitrating Disputes Under the Securities Laws" The Practical Lawyer October, 1990 V.36 N.7 pp. 65(12) This article discusses rules of the SEC which create a structured arbitration process for securities dispute resolution. ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: SECURITIES/

**REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE
ISSUES/ LEGISLATION**

Robbins, David E. "Securities Arbitration From the Arbitrators' Perspective" Review of Securities & Commodities Regulation September, 1990 V.23 N.17 pp. 171-178 The author provides insights to aid attorneys in representing their clients in a securities arbitration proceeding. **ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ ARB: CLIENT REP/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: SECURITIES**

Roberts, Chad "Florida's New Magistrate Corps: Jurists, Administrators, or Neither?" Florida State University Law Review March 22, 1990 - Spring V.17 N.3 pp. 675-696 A discussion of different methods of resolving minor traffic violations, concentrating on Florida's creation of a modified judicial approach utilizing magistrates or other inferior judicial officers. **INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: JUSTICE SYSTEM- JUSTICE OF PEACE/ INST NATURE: JUSTICE SYSTEM-OTHER**

Roberts, Marian "Systems or Selves? Some Ethical Issues in Family Mediation." (Great Britain) Journal of Social Welfare Law January, 1990 V.1 pp. 6-17 This article considers the negative effects of imposing family therapy concepts onto the mediation process; it describes how this approach may seek to transform mediation into a form of therapeutic treatment and/or shift the balance of power away from the mediating parties and into the hands of the "family expert." **MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: COUNSELING/ MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ POWER IMBALANCE**

Roberts, Matthew I.; Wolters, Roger S.; Holley, William H., Jr.; Feild, Hubert S. "Grievance Mediation: A Management Perspective" Arbitration Journal September, 1990 V.45 N.3 pp. 15-23 This article discusses the advantages of grievance mediation as opposed to arbitration to settle labor disputes, looking at the advantages from a management viewpoint. **MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OBTAINING AGREEMENT TO USE/ ARB: BINDING ARB-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ**

MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPLIANCE ISSUES/ DISPUTE PREVENTION/ SELECTION OF APPROPRIATE PROCESS

Roberts, Simon "A Blueprint for Family Conciliation?" (Great Britain) Modern Law Review January, 1990 V.53 N.1 pp. 88-90 Report of a Newcastle Conciliation Project Unit study on the use of mediation in divorce settlement, which found that couples who made joint agreements as to custody, child support, and property division were happier with the settlement and less likely to need to turn to the courts later. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL

Robinson, Robert L. "ADR In The Insurance Industry: One Company's Perspective" Arbitration Journal September, 1990 V.45 N.3 pp. 24-29 This article describes the utilization of ADR by the CIGNA corporation, and asserts that recent state and federal developments facilitating ADR should lead to increased use of ADR in the insurance industry. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PRIVATE JUDGING/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INSURANCE/ DISPUTE PREVENTION/ ECONOMIC ADVANTAGES OF ADR/ ORGANIZATION POLICIES AND RULES/ SELECTION OF APPROPRIATE PROCESS

Rogers, Andrew "Contemporary Problems in International Commercial Arbitration" International Business Lawyer March, 1989 V.17 N.4 pp. 154(7) The author argues that with the continuing integration of international markets, it is necessary and desirable to pursue uniformity in national dispute resolution systems, particularly in the area of commercial arbitration, since it has become the preferred solution for achieving uniformity by the business community. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ ARB: BINDING ARB-GENERAL/ ARB: JUDICIAL REVIEW

Roman, Neil K. "Illegal Procedure: The National Football League Players Union's Improper Use of Antitrust Litigation for Purposes of Collective Bargaining" Denver University Law Review January, 1990 - Winter V.67 N.2 pp. 111-134 An examination of judicial

involvement in collective bargaining disputes in the context of Powell v. NFL, 888 F.2d 559 (8th Cir. 1989). The author critiques attempts by the National Football League Players association to circumvent the collective bargaining process as a means of resolving disputes in favor of litigation.

SUBJ MATTER: ANTITRUST/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE PROCESS

Rosen, R. Eliot "Triplett Offers Insights into Final ADR Procedure" Tax Notes November 19, 1990 V.49 N.8 pp. 838(1) This article is a report of comments made by Charles P. Triplett, IRS deputy associate chief counsel, concerning advance determination ruling procedure, designed as an alternative to the costly system of auditing transfer-pricing cases. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

Roth, Ronica "The Frivolous Case - Or Is It?" (When to Say Yes, and How to Say No) Complete Lawyer 1990 - Fall V.7 N.4 pp. 34(5) The author determines what to look for in deciding whether a case is frivolous and deciding what other alternative dispute resolution options may be available. MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/ NON-BINDING RECOMMENDATION PROC-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS/ TEACHING

Rothstein, Larry A. "Surety In Bad Faith For Demanding Arbitration?" (California) The Los Angeles Daily Journal November 12, 1990 V.103 N.225 p. 7 The article discusses surety bad faith law, which implicitly acts as an admission of liability to creditors when the surety agrees that the matter should be arbitrated. ARB: BINDING ARB-GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INSURANCE/ 3RD PARTY: LIABILITY & IMMUNITY

Rowe, Donald A. "Institutionalizing ADR At Eaton." (Eaton Corp.) Corporate Counsels' Quarterly October, 1990 V.6 N.4 pp. 87-107 A survey of Eaton Corporation's approach to ADR and the methods they employ. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE,

PROFIT-MAKING/ SUBJ MATTER: CORPORATE/
REQUIREMENTS: CONTRACTUAL CLAUSES

Rowe, Mary P. "Helping People Help Themselves: An ADR Option for Interpersonal Conflict" Negotiation Journal July, 1990 V.6 N.3 pp. 239 - 248 This article discusses the direct approach to dispute resolution and illustrates the approach with a letter written to a person who has harassed or offended the writer. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS

Roy, Stephen J. "Developer Exactions and Impact Fees" Colorado Lawyer January, 1990 V.19 N.1 pp. 67-(3) This article explores and evaluates how various state courts have approached the issue of the imposition of developer exactions and their constitutionality. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ FAIRNESS

Rubino, Richard G. & Jacobs, Harvey M. Mediation and Negotiation for Planning, Land Use Management, and Environmental Protection: An Annotated Bibliography of Materials for the Period 1980-1989 This book is an annotated bibliography of materials on : mediation and negotiation; comprehensive planning, growth management and land use; and environmental protection and the role of the mediator. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: ENVIRONMENT/ TYPE OF SOURCE: BIBLIOGRAPHY

Rubino-Sammartano, Mauro "Is Arbitration to be Just a Luxury Clinic?" Journal of International Arbitration September, 1990 V.7 N.3 pp. 25-30 An analysis of arbitration as a means for resolving notably large contractual disputes, as well as resolving mid-size and small claims, noting that arbitration proceedings must be adapted to the size of a conflict to be useful. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS

Rutherford, Margaret "Back To The Future" New Law Journal November 16, 1990 V.140 N.6480 pp. 1600(3) This article suggests that litigation is not as adaptable as alternative forms of dispute resolution

and emphasizes arbitration among other alternatives. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ OMBUDSPERSON

Salomone, William G. "On the Road to Mediation: Resolving Public Highway Construction Disputes" Arbitration Journal March, 1990 V.45 N.1 pp. 3-14 This article discusses the use of mediation in resolving conflicts in Sarasota, Florida between the government's need to expand roadways and a community's interest in curtailing adverse effects of the construction. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: OPENING AND SETTING GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ MED: DRAFTING SETTLEMENT AGREEMENTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: CONSTRUCTION/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Sande, C. Ken "The Dangers of 'Good' Advocacy" Quarterly (Christian Legal Society) March 22, 1990 - Spring V.11 N.1 pp. 9-11 The article addresses the danger of extreme client advocacy in arbitration proceedings, particularly when it may increase hostility among the parties, and supports the Christian Conciliation Service's biblically informed negotiation, mediation, and arbitration procedures. NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: PSYCH CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: RELIGIOUS ORGANIZATIONS

Sander, Frank E.A. "Corporate Counsel's Guide to Alternative Dispute Resolution Techniques" ABA Journal August, 1990 V.76 pp. 108(1) This book offers a compilation of articles from the field of alternative dispute resolution. The author criticizes the guide's failure to incorporate some recent ADR developments and its failure to reconcile some inconsistencies in articles included. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED

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Sander, Frank E.A. "Donovan Leisure Newton and Irvine ADR Practice Book" (book review) ABA Journal August, 1990 V.76 pp. 108(1) This article compares Corporate Counsel's Guide to Alternative Dispute Resolution Techniques and Donovan Leisure Newton & Irvines ADR Practice Books and concludes that the Donovan Leisure publication is more accurate, provides broader coverage, and is a useful tool for understanding the ADR process. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ TYPE OF SOURCE: BOOK REVIEW

Sander, Frank E.A.; Prigott, Michael L. "Professional Responsibility: Should There be a Duty to Advise of ADR Options?" (pro and con) ABA Journal October 22, 1990 V.76 pp. 50(2) A debate on the propriety of a requirement that lawyers present clients with ADR alternatives. The proponent asserts that disclosure to clients should be mandatory to insure that all lawyers are proficient in the field, and to enable clients to make informed decisions. The opponent feels that the requirement would add to client costs and would otherwise be an unreasonable burden. SUBJ MATTER: GENERAL/ ETHICS: GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE

Schenker, Arlene R. "Mediation: Law, Policy, Practice" Federal Bar News & Journal May, 1990 V.37 N.4 p. 240 A book review of Mediation: Law, Policy, Practice, by Nancy H. Rogers and Craig A. McEwen, recommending the book as a substantive guide for attorneys considering the practice of mediation. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Schenker, Arlene R. "Mediate, Don't Litigate" Federal Bar News & Journal May, 1990 V.37 N.4 p. 240 A book review of Mediate, Don't Litigate, by Peter Lovenheim, assessing the book as a helpful aid in understanding the general concepts of mediation. MED: RELATED

PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ SUBJ MATTER: GENERAL/ TYPE OF
SOURCE: BOOK REVIEW

Schmertz, Eric J. "Honorable Frank A. Gulotta Lecture: Nassau County Bar Association, January 28, 1987" (drug testing in the workplace) Hofstra Labor Law Journal March 22, 1990 - Spring V.5 N.2 pp. 129-148 A lecture by Eric Schmertz concerning issues which will be litigable or arbitrable in the context of employer drug testing of employees as these testing practices continue and increase. NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Schoonhoven, Ray J., ed. Fairweather's Practice and Procedure in Labor Arbitration This textbook provides guidelines for those involved in labor arbitration. It outlines recent changes and developments in the field which also serve to help practitioners in the field. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)

Schulhofer, Stephen J.; Nagel, Ilene H. "Negotiated Pleas Under the Federal Sentencing Guidelines: The First Fifteen Months" (Sentencing Symposium) American Criminal Law Review December 22, 1990 - Fall V.27 N.2 pp. 231-288 This article looks at changes in prosecutorial and plea bargaining practices both before and after the Supreme Court's decision in Mistretta v. United States, 109 S. Ct. 647 (1989). It suggests that both charging and plea negotiation processes are more consistent under the ruling. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Schwartz, Matthew D. "Multiparty Disputes and Consolidated Arbitrations: An Oxymoron or the Solution to a Continuing Dilemma?" Case Western Reserve Journal of International Law March 22, 1990 - Spring-Summer V.22 N.2-3 pp. 341-373 An examination and criticism of court compelled, consolidated arbitrations in the context of construction contracts and maritime charter party agreements. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:

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JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION

Scott, Jeffrey J. "Securities Litigation in the 1990's" Colorado Lawyer October, 1990 V.19 N.10 pp. 2045(4) This article describes the role of arbitration as it relates to securities litigation, including a discussion on past efforts to ban the use of arbitration in the securities industry and its future role in the industry. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: SECURITIES/ 3RD PARTY: SELECTION/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Scowcift, Jerome C. "Self-Executing Arbitration Agreements - Petition to Compel Arbitration - Standing - Proof of Service" Journal of Maritime Law and Commerce October, 1990 V.21 N.4 pp. 589-601 This note discusses the Waterspring case and criticizes it for discouraging self-executing arbitration agreements within the meaning of Section 4 of the Federal Arbitration Act. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: MARITIME/ COURT REFORM

Seppala, Christopher R. "New FIDIC Contract For Civil Engineering: Principal Changes in Procedure for Settlement of Disputes" Middle East Executive Reports February, 1990 V.13 N.2 pp. 8(6) This article analyzes the impact of the changes made in the fourth edition of the FIDIC Conditions of Contract for Works of Civil Engineering Construction, and predicts the disputes that will be created by the revisions. ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ AGREEMENT ON PROCEDURE

Seppala, Christopher R.; Gogek, Daniel "Multiparty Arbitration Under ICC Rules" Middle East Executive Reports March, 1990 V.13 N.3 pp. 8(5) This article illustrates the ineffectiveness of the International Chamber of Commerce's standard arbitration clause in dealing with multiparty disputes. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB:

SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB
AGREEMENT/ SUBJ MATTER: INT'L

Sever, J.R. "Rodriguez de Quijas v. Shearson/American Express: A Green Light to Arbitration, a Yellow Light to Investors" Tulane Law Review May, 1990 V.64 N.5 pp. 1312-1320 This article examines a recent Supreme Court case which held that the Federal Arbitration Act supersedes action of the 1933 & 1934 Securities Exchange Acts; the author concludes that this may be unfair to private investors who sign standard customer forms and are unaware of the arbitration agreements. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: SECURITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE ISSUES/ FAIRNESS

Shafer, William J. "Arbitration - Arbitration Gets the Green Light as the Death Blow is Struck to Wilco v. Swan" The Journal of Corporation Law January, 1990 - Winter V.15 N.2 pp. 339-362 This article examines the use of arbitration clauses in security agreements, and the Supreme Court's recent decision that they are valid and enforceable in disputes that arise out of the Securities Act of 1933. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: SECURITIES/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR

Shannon, Brian D. "The Administrative Procedure and Texas Register Act and ADR: A New Twist for Administrative Procedure in Texas?" Baylor Law Review September 22, 1990 - Fall V.42 N.4 pp. 705-736 This article discusses the widespread acceptance of the Texas Register Act, points out its inefficiency and suggests the need for flexibility in some cases to resolve disputes short of the full process delineated by the act. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION

Shapiro, David J. "Private Judging in the State of New York: A Critical Introduction" Columbia Journal of Law and Social Problems March 22, 1990 - Spring V.23 N.2 pp. 275-315 This article explores and endorses private judging in New York as an effective form of ADR. ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ JUDICIAL PARTICIPATION

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Shapiro, Mitchell S. "Arbitration May Not Always Be the Best Option" The Los Angeles Daily Journal October 12, 1990 V.103 N.204 p. 7 This article calls into question the accepted positive attributes of arbitration in settling disputes arising under the fast-growing field of franchise law. ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ SELECTION OF APPROPRIATE PROCESS

Shaw, J.W. "The Industrial Relations Act 1988 - A New Era for the Resolution of Industrial Conflict?" Australian Law Journal October, 1990 V.64 N.10 pp. 620-629 This author examines the possible effects of the Australian Industrial Relations Act of 1988, and while acknowledging its attempt to re-write industrial law, remains convinced that the enactment will not result in substantial change in the resolution of industrial disputes. SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: REGULATORY/ COMPARISONS: CROSS-CULTURAL/ COMPARISONS: HISTORICAL/ REQUIREMENTS: MANDATE TO USE/ LEGISLATION/ PROVISIONAL REMEDIES

Shawn, Joel "The Mediation Alternative" Family Advocate June 22, 1990 - Summer V.13 N.1 pp. 16(2) The author argues that mediation reduces the amount of time lawyers spend in divorce proceedings because mediators address the emotional issues that block resolution of a divorce. MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ CONFIDENTIALITY

Shell, G. Richard "ERISA and Other Federal Employment Statutes: When is Commercial Arbitration an 'Adequate Substitute' for the Courts?" Texas Law Review February, 1990 V.68 N.3 pp. 509-573 The author discusses the arbitrability of ERISA and other federal statutory employment claims under the FAA, and concludes that apparent inconsistent treatment by courts is in part due to the differences between commercial and labor arbitration. ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/

SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS:
CONTRACTUAL CLAUSES/ LEGISLATION

Sheppard, John "An Analysis of Liquidated Damage Clauses as a Method of Dispute Resolution Under Ohio Law" Ohio State Journal on Dispute Resolution March 22, 1990 - Spring V.5 N.2 pp. 437-457
This note analyzes the effectiveness of liquidated damage clauses as tools of dispute resolution under Ohio law. The Note presents some common situations in which liquidated damage clauses are used and provides guidelines for such uses on the current commercial environment along with suggestions for the improvement of current Ohio law. SUBJ MATTER: GENERAL/ SUBJ MATTER: GOV'T CONTRACTS// SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: PUBLIC UTILITIES/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ECONOMIC ADVANTAGES OF ADR/ ETHICS: GENERAL

Sherman, Jeremy P. "Collective Bargaining Over Work Assignment Proposals: Differentiating Between Concepts of Jurisdiction and Unit Scope" Labor Law Journal January, 1990 V.41 N.1 pp. 3-12
This article examines the often subtle distinctions between jurisdiction and scope of a bargaining unit, using cases to illustrate. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Shrader-Frechette, Kristin S. "Perceived Risks Versus Actual Risks: Managing Hazards Through Negotiation" Risk: Issues in Health & Safety September 22, 1990 - Fall V.1 N.4 pp. 341-363
A discussion of the distinction between "perceived risks" and "actual risks," as calculated by lay persons and experts, respectively, and how the negotiation of their different perceptions can aid in the resolution of disputes. Specific application of the Hudson River Controversy of 1964. NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: PSYCH CONSIDERATIONS/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ SUBJ MATTER: ENVIRONMENT

Shuart, Kathy "Pilot Programs to go Statewide" North Carolina State Bar Quarterly March 22, 1990 - Spring V.37 N.2 pp. 8(2)
Article details recent incorporation of alternative dispute resolution in North Carolina courts, including custody mediation and court-ordered non-binding arbitration for civil cases, and notes that use of these

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techniques will increase with continued funding of the General Assembly.

MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/
NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
MANDATORY, COURT-ANNEXED- FEES & FUNDING/ SUBJ
MATTER: FAMILY (DOMESTIC REL)

Shum, Clement "Maritime Arbitration in the People's Republic of China" Lloyds Maritime and Commercial Law Quarterly February, 1990 V.1 pp. 114-118 This article analyzes the new set of arbitration rules promulgated by the China Maritime Arbitration Commission (CMAC) passed at the September 1988 meeting of the China Council for the Promotion of International Trade (CCPIT). ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME/ ORGANIZATION POLICIES AND RULES

Shum, Clement "International Economic and Trade Arbitration in China" Journal of Business Law May, 1990 pp. 274-280 The author examines the China International Economic and Trade Arbitration Commission's jurisdiction, organization, procedures, awards, applicable law, and costs. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L

Siegel, Ruth; Fox, Frances "ADR in Family Law - A Guide for the Perplexed" Law Institute Journal July, 1990 V.64 N.7 pp. 612-614 A brief discussion of the various dispute processes available in Australia to resolve domestic relations disputes, emphasizing mediation as a particularly helpful method of both resolving underlying disputes and satisfying both sides of a conflict. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ ARB: BINDING ARB- GENERAL/ INST

NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: ENVIRONMENT

Silbey, Susan S. "On the Relationship of State Theory to Sociolegal Research: The Example of Minor Disputes Processing" (Symposium: Silences in Research and Theory: The Role of The State in Sociolegal Research) Studies in Law, Politics, and Society January, 1990 - Annual V.10 pp. 67-75 The author compares one example of mediation to the lower court counterpart in the context of the role of the state in the mediation process. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES

Silverman, B. Scott "The Enforceability of Releases and Arbitration Agreements in Employment Discrimination Cases" ALI-ABA Course Materials Journal October, 1990 V.15 N.2 pp. 103-128 This article outlines the scope of waiver and release contracts in employment discrimination cases, including the knowing and voluntary requirements of such contracts, and the trend favoring enforcement of arbitration agreements. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM

Singhania, D.C. "Arbitration in the Construction Industry in India" Journal of International Arbitration June, 1990 V.7 N.2 pp. 49-52 A brief discussion of the potential for using arbitration to resolve disputes in India, calling for a change of attitude in India to accept arbitration as an efficient and fair method of dispute resolution. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: INT'L

Sinicropi, Anthony V. "The Use and Abuse of Management Rights" (Current Issues in Arbitration Law) (Forum: Labor Law Symposium Proceedings) Industrial Relations Law Journal July, 1990 - Winter V.10 N.1 pp. 2-7 The author asserts that arbitrators need to keep in mind that the conflict between management rights and intrusions on these rights by labor lie at the core of many disputes. ARB: BINDING ARB-

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GENERAL/ ARB: PREPARATION/ ARB: SERVING AS
ARBITRATOR/ SUBJ MATTER: LABOR-DISCRIMINATION

Skillen, James W. "Can Nations Be Reconciled?" Quarterly (CLS)
Summer 1990 V.11 N.2 p. 31 Political reconciliation and conflict
resolution among nations can be achieved through the practice of
self-limitation, rooted in Christian Tradition. INST NATURE:
RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: GOV'T/ SUBJ
MATTER: INT'L/ COMPARISONS: HISTORICAL

Skratek, Sylvia "Grievance Mediation: Does It Really Work?"
Negotiation Journal January, 1990 V.6 N.1 pp. 269-280 This
article presents the results of a 1988 follow-up study to the 1985
Washington Education Association study. The studies found that the
introduction of grievance mediation prior to arbitration yielded faster and
less expensive results in two diverse industries: coal mining and education.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED
PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING
COMM AND NEG/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
SUBJ MATTER: EDUCATION/ MED: FEES, FUNDING, AND
ADMIN OF MEDIATION CENTERS/ ARB: MANDATORY,
COURT-ANNEXED- FEES & FUNDING

Smith, Al Lawrence "Negotiating With Patent Examiners" Journal Of
The Patent and Trademark Office Society February, 1990 V.72 N.2
pp. 168-176 This article argues that the typical win-lose approach taken
by attorneys is inappropriate in a negotiation interview with a patent
examiner and recommends various preferred preparation, interaction, and
avoidance strategies for use in such an interview. NEG: TACTICS,
STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS,
STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS,
STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ MED:
ENCOURAGING COMM AND NEG/ MED: REP OF A CLIENT
DURING PROCESS/ INST NATURE: GOV'T ENTITIES/ SUBJ
MATTER: REGULATORY

Snow, Carlton J. "An Arbitrator's Use of Precedent" Dickinson Law
Review March 22, 1990 - Spring V.94 N.3 pp. 665-720 The
author offers an approach to evaluate the precedential value of arbitration
awards, then examines the four different ways in which judicial review of
these awards can affect arbitral precedent. ARB: BINDING ARB-
GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO

ARB/ ARB: JUDICIAL REVIEW/ SETTLEMENT: ENFORCEMENT
OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES/ ISSUE &
CLAIM PRECLUSIVE EFFECTS

Solomon, Stephen D. "Contempt of Court." (How to Avoid Litigation and Cut Legal Costs; Includes 3 Case Studies) Inc. April, 1990 V.11 N.10 pp. 106(5) Executives should use cost-benefit analysis of their legal matters, and make use of various ADR techniques. MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ ECONOMIC ADVANTAGES OF ADR

Spalding, Albert D., Jr. "Mapping Out The Multiemployer Pension Plan Arbitration Act" ('MPPAA') The Practical Lawyer April, 1990 V.36 N.3 pp. 73-81 The Multiemployer Pension Plan Amendments Act of 1980 is discussed in full detail, arguing that the plan sponsor must calculate a "withdrawal liability" whenever an employer withdraws from a multi-employer pension plan. Upon withdrawal, the employer will be notified of its liability and if it disagrees with the amount of liability, the employer has a grace period before the matter will automatically be turned over to arbitration. ARB: BINDING ARB- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION/ TEACHING

Speight, Howard L. "Current Procedures for Performing Meaningful Discussions in Federal Negotiated Procurements are Uneconomical, Inefficient, and Ineffective - A Proposal for Improvement" St. Mary's Law Journal June 22, 1990 - Summer V.21 N.4 pp. 985-1018 In this article, the author criticizes the Federal Government's current method of procurement and suggests improvements; namely by overhauling Federal Acquisition Regulations (FAR). NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: GOV'T CONTRACTS

Spelfogel, Evan J. "Alternative Dispute Resolution and Deferral to Arbitration." (Alternative Dispute Resolution) The Labor Lawyer January, 1990 - Winter V.6 N.1 pp. 87-96 This article examines the pros and cons of ADR, focussing on ADR's use in the labor-management

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arena, primarily as it relates to statutory issues. Additionally, the article denounces the idea that plaintiffs in discrimination matters currently are permitted to pursue their rights both under arbitration and before the NLRB.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/
ARB: BINDING ARB- GENERAL/ INST NATURE: GOV'T
ENTITIES/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:
EMPLOYMENT (NON-UNIONS)/ REQUIREMENTS: STATUTORY
OR RULES/ COURT REFORM

Spies, Frank S. "Ten Commandments for Effective Mediation Practice"
Michigan Bar Journal May, 1990 V.69 N.5 pp. 422(2) The author
offers some procedures to follow to acquire effective mediation techniques.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/
MED: ENCOURAGING COMM AND NEG/ MED: REP OF A
CLIENT DURING PROCESS/ SUBJ MATTER: GENERAL/
CONFERENCE PROCEEDINGS/ DISPUTE PREVENTION/ ROLE
OF LAWYERS

Spiller, Peter "A Review of the Disputes Tribunals of New Zealand"
New Zealand Law Journal March, 1990 pp. 109-112 This article
offers a look at recent trends in the New Zealand dispute tribunals;
focusing on the referees, parties appearing before the tribunals, and claims
brought before the tribunals.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION
PROC- GENERAL/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE:
GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: INT'L

Stadler, Christoph "The New GATT Round of Multilateral Trade
Negotiations, Legal and Economic Problems." (book review)
International Lawyer June 22, 1990 - Summer V.24 N.2 pp.
577-581 The title of the book is the same as the subject of an academic
conference held in June, 1987. The book reproduces a majority of the
revised papers and shorter comments of the conference, including
twenty-five contributions from many of the best-known GATT specialists.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
NEG: CULTURAL CONSIDERATIONS/ INST NATURE: GENERAL/
SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/
SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/

COMPARISONS: HISTORICAL/ ORGANIZATION POLICIES AND RULES/ TEACHING

Stanley, Linda R.; Coursey, Don L. "Empirical Evidence on the Selection Hypothesis and the Decision to Litigate or Settle" Journal of Legal Studies January, 1990 V.19 N.1 pp. 145-172 This article describes the option-pricing model for litigation and provides empirical evidence to show the virtues of its application by studying the value of the option to sue under varying scenarios. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS

Starke, J.G. "The Seventieth Anniversary of the Engineers Case Commemorated" Australian Law Journal December, 1990 V.64 N.12 pp. 755-759 On the seventieth anniversary of the Australian high court's decision in Amalgamated Society of Engineers v. The Adelaide Steamship Co., LTD, the author analyzes the case and its major role in Australian nationalism and the elimination of the notion of reserved powers of the states. INST NATURE: GOV'T ENTITIES/ COMPARISONS: HISTORICAL/ COURT REFORM/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/ JUDICIAL PARTICIPATION/ RELATION TO ONGOING LITIGATION

Starke, J.G. "Compulsory Arbitration in Supreme Court Civil Proceedings in New South Wales" Australian Law Journal June, 1990 V.64 N.6 pp. 317-319 This article summarizes the passage of the Courts Legislation Amendment Act of 1989, which requires arbitration in Supreme Court civil proceedings in New South Wales in order to reduce delays in that court's civil jurisdiction. INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: REGULATORY/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION

Steenrod, Robert L., Jr. "Avoiding Litigation in Probate Estates" (Alternative Dispute Resolution) Colorado Lawyer May, 1989 V.18 N.5 pp. 875(3) The article discusses some creative techniques provided by the Colorado Probate Code to avoid the need for litigation in decedent and conservatorship estates, including resort to private agreements among the parties, court-approved settlements of more substantial disputes and

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renouncements and statutory elections to realign the distribution of the decedent's property. INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: PROBATE

Stein, Mark S. "10(b) or Not 10(b): A Critical Overview of Court-Selected Limitations Periods in Labor Law" The Labor Lawyer March 22, 1990 - Spring V.6 N.2 pp. 331-393 Examines case law on labor law limitations periods and proposes solutions to the confusion created by Del Castello v. International Brotherhood of Teamsters, 462 U.S. 151 (1983). SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ LEGISLATION

Stempel, Jeffrey W. "Pitfalls of Public Policy: The Case of Arbitration Agreements" St. Mary's Law Journal December, 1990 V.22 N.2 pp. 259-355 This article offers an in depth study of the history of arbitration, its slow-forming acceptance, the genesis of the Federal Arbitration Act, and finally, criticism of the judiciary's abuse of the "public policy" exception when refusing to settle some claims. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: PUBLIC POLICY/ FAIRNESS/ ORGANIZATION POLICIES AND RULES

Stern, Alissa "International Agreements - Agreement to Enter into Comprehensive Negotiations, Ethiopia-Eritrean People's Liberation Front, Final Communique" Harvard International Law Journal January, 1990 - Winter V.31 N.1 pp. 339-348 This article reviews the past difficulties between the Eritrean People's Liberation Front (EPLF) and the Ethiopian government and discusses the implications of the recent agreement to enter into comprehensive negotiations announced by the Carter Center. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: CULTURAL CONSIDERATIONS/ MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE

Stevens, Carl M. "Comments on 'Socrates Confronts Final-Offer Selection'" Industrial Relations September 22, 1989 - Fall V.29 N.3 pp. 528-529 The author gives a brief analysis of the essay "Socrates Confronts Final-Offer Selection" and suggests that in examining the historical development of final-offer arbitration in industrial relations disputes, attention should be given to the role of Socrates' analysis of final-offer arbitration's effectiveness. ARB: FINAL OFFER ARB/

ARB: BINDING ARB- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ COMPARISONS: HISTORICAL/ SUBJ MATTER: LABOR-GENERAL

Stewart, C. Evan "How to Construct Better Arbitration Clauses" The Practical Lawyer December, 1990 V.36 N.8 pp. 79(8) The author discusses possible disadvantages of arbitration and offers advice on the importance of drafting a clause that specifically addresses forum choice, selection of arbitrator, procedural rules, damages, and judicial review.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW

Stoecker, Christoph W.O. "The Lex Mercatoria: To What Extent Does it Exist?" Journal of International Arbitration March, 1990 V.7 N.1 pp. 101-125 The author discusses a transnational law of trade that has developed in the international business community as a result of conflict of law problems, noting that such a transnational law has never been enforced by legal courts but has been used in international arbitration proceedings only to the extent of limiting the substance of disputes.

ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L

Stratton, Jeremy "Occupying the Middle Ground" (Great Britain) New Law Journal May 16, 1990 V.140 N.6456 pp. 719(2) The author describes mediation as the ideal replacement of litigation in the United Kingdom in the 1990's. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ SUBJ MATTER: INT'L

Strub, Michael H., Jr. "Resisting Enforcement of Foreign Arbitral Awards Under Article V(1)(3) and Article VI of the New York Convention: A Proposal for Effective Guidelines" Texas Law Review April, 1990 V.68 N.5 pp. 1031-1071 The author discusses how the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) should guide judicial decisions involving arbitration for transnational businesses. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO

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ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ SUBJ MATTER: REGULATORY/ LEGISLATION

Sullivan, Mark D.; Gillis, Patricia A. "Survey: Developments in Maryland Law, 1988-89" (VI. Labor Law) Maryland Law Review June 22, 1990 - Summer V.49 N.3 pp. 691-714 Examination of the validation of agreements to arbitrate found in Anne Arundel County v. Fraternal Order of Anne Arundel Detention Officers and Personnel, 313 Md. 98, 543 A.2d 841 (1988) and its effect on Maryland law. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: PRIVATE JUDGING/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ SELECTION OF APPROPRIATE PROCESS

Sunoo, Jan Jung-Min "Some Guidelines for Mediators of Intercultural Disputes" Negotiation Journal October, 1990 V.6 N.4 pp. 383-389 The author discusses Yamato Products v. IPU Local 100, outlining the difficulties incurred by a U.S. trade union and a Japanese-owned produce processing plant when they attempted to conclude a trade agreement. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ COMPARISONS: CROSS-CULTURAL

Swanson, Steven R. "Comity, International Dispute Resolution Agreements, and The Supreme Court" Law and Policy in International Business June 22, 1990 - Summer V.21 N.3 pp. 333-365 The author critiques decisions of the U.S. Supreme Court as discouraging the use of arbitration to settle international commercial disputes. He reasons that a "smoothly functioning system" of resolving international civil disputes would better benefit American interests. SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPLIANCE ISSUES

Syverud, Kent D. "The Duty to Settle" Virginia Law Review June 22, 1990 V.76 N.6 1114-1209 The duty-to-settle doctrine is explored to examine the influence of liability insurance on the settlement of tort litigation. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: GENERAL/ SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS/ SETTLEMENT:

**PRESSURES TO SETTLE/ COMPLIANCE ISSUES/ ECONOMIC
ADVANTAGES OF ADR/ COURT REFORM**

Tackaberry, John A. "Elementary Economics and the Construction Dispute. An Outsider's Look at The Swiss Law Remedies Available to the Unpaid Contractor" Journal of International Arbitration September, 1990 V.7 N.3 pp. 73-81 The author describes the Swiss Arbitration Tribunal's steps in deciding a dispute where contractors seek payment for services rendered. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Tarullo, Daniel K. "The New GATT Round of Multilateral Trade Negotiations: Legal and Economic Problems" American Journal of International Law January, 1990 V.84 N.1 pp. 338-342 This is a book review of a volume containing papers and comments presented at the conference entitled "The New Gatt Round of Multilateral Trade Negotiations: Legal and Economic Problems". NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Taviss, Michael L. "Adventures in Arbitration: The Appealability Amendment to the Federal Arbitration Act" University of Cincinnati Law Review September 22, 1990 - Fall V.59 N.2 pp. 559-585 This article is an examination of Section 15, an amendment to the Federal Arbitration Act and a suggested alternative to the amendment. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SUBJ MATTER: GOV'T/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION/ LEGISLATION

Taylor, Christopher A. "Signing Off Human Rights: Wrongful Dismissal Settlements and the Ontario Human Rights Code" Advocates' Quarterly July, 1990 V.11 N.4 pp. 422-435 This article investigates the disincentive for employers to settle wrongful discharge claims when they may still be subject to a collateral attack under the Ontario Human Rights Code and by suggests ways in which an employer can avoid paying double compensation. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ

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MATTER: EMPLOYMENT (NON-UNIONS)/ SETTLEMENT:
PRESSURES TO SETTLE

Thomas, D. Rhidian "Arbitral Delay and The Recommendation of the Departmental Advisory Committee." (Great Britain) Journal of Business Law March, 1990 pp. 110-125 The author criticizes a recommended change in English arbitration laws that would allow the arbitral tribunals to dismiss claims for inordinate delay. It is suggested that such authority only be available with the express consent of both parties. ARB: MANDATORY, COURT-ANNEXED- GENERAL/
ARB: DRAFTING ARB AGREEMENT/ COMPLIANCE ISSUES/
LEGISLATION

Thomas, D. Rhidian "International Commercial and Maritime Arbitration" Lloyds Maritime and Commercial Law Quarterly February, 1990 V.1 pp. 130-132 While the reviewer holds that some of the six articles in International Commercial and Maritime Arbitration may be too dated for the practitioner, he finds that the volume can be especially useful to the academician on such topics as arbitral immunity, transnationalism, and the jurisprudence of arbitration. ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/
ARB: CLIENT REP/ ARB: JUDICIAL REVIEW/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: MARITIME/ COMPARISONS: HISTORICAL

Thomas, D. Rhidian "The Arbitration Exclusion in the Brussels Convention 1968: An English Perspective" Journal of International Arbitration September, 1990 V.7 N.3 pp. 43-52 A discussion of the arbitration exclusion in the 1968 Brussels Convention, which intended to create a legal framework for judgment and jurisdictional issues among European Economic Community nations, noting the general confusion over the purpose and validity of the exclusion needs to be resolved by the European Court. ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/ LEGISLATION

Thomas, D. Rhidian "The Judicial Supervision of Arbitral References Involving an Allegation of Fraud" Civil Justice Quarterly October, 1990 V.9 pp. 381-403 The author concludes that judicial supervision of arbitration proceedings reduces the level of fraud and provides a basis for judicial review. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO

ARB/ ARB: JUDICIAL REVIEW/ COURT REFORM/ ETHICS:
GENERAL/ JUDICIAL PARTICIPATION

Thomas, Kaaran E. "Valuation of Assets in Bankruptcy Proceedings: Emerging Issues" Montana Law Review 1990 - Winter V.51 N.1 pp. 126-160 An exploration of the issues arising from the courts' establishment of standards governing bankruptcy valuation. ARB: JUDICIAL REVIEW

Thompson, Roderick M. "Mediation: Law, Policy, Practice" (book review) Arbitration Journal June, 1990 V.45 N.2 pp. 59 This book review of Rogers and McEwen's Mediation: Law, Policy, Practice describes the authors' production as an extremely well referenced treatise on the subject of mediation, critical only of the lack of discussion on commercial and international disputes necessary due to the treatises' broad focus. MED: RELATED PROCESSES-GENERAL/ TYPE OF SOURCE: BOOK REVIEW

Thornton, Robert J.; Zirkel, Perry A. "The Consistency and Predictability of Grievance Arbitration Awards" Industrial and Labor Relations Review January, 1990 V.43 N.2 pp. 294-307 The authors conducted a study of the consistency and predictability of grievance arbitration awards by arbitrators, management, and union representatives, finding considerable inconsistency among labor arbitrators in their decisions. The authors conclude that further research should focus on the opinion portion of arbitrator decisions and their acceptability. ARB: BINDING ARB- GENERAL/ ARB: SERVING AS ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ INST NATURE: GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ QUALITY CONTROL

Thurman, Ruth Fleet "Chipping Away at Lawyer Veracity: The ABA's Turn Toward Situation Ethics in Negotiations" Journal of Dispute Resolution January, 1990 V. 1990 N.1 pp. 103-116 This article decries the exceptions to honest dealings by negotiating lawyers contained in ABA Model Rule 4.1 and its official comment, explaining that these exceptions to the truthfulness requirement are unwarranted as well as detrimental to the legal system. NEG: W/ OR W/O ASSIST OFF 3D PARTY NEUTRAL- NEGOTIATOR'S DILEMMA/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- THREATS/ NEG: TACTICS,

STRATEGIES AND TECHNIQUES- FALSE DEMANDS/ NEG:
TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ ETHICS:
GENERAL/ ETHICS: MISREPRESENTATION, FAILURE TO
DISCLOSE

Toope, Stephen J. Mixed International Arbitration: Studies in Arbitration
Between States and Private Persons An evaluation and synthesis of the
experience gained in various arbitrations between states and foreign private
persons. The book discusses the issues of enforcement, substantive and
procedural law, and examples of Institutional Mixed Arbitration. NEG:
W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ MED:
RELATED PROCESSES-GENERAL/ NON-BINDING
RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB-
GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO
ARB/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR
AWARD

Tornquist, Leroy J. "The Active Judge in Pretrial Settlement: Inherent
Authority Gone Awry" Defense Law Journal July, 1990 V.39 N.3
pp. 307-338 The author contends that before any new innovations in the
areas of mediation or negotiation are explored, the adversary process and
the judge's role in this process should be to see if the judge can evaluate
the stress on the system by encouraging settlement during the pretrial
stages of the case. NON-BINDING RECOMMENDATION PROC-
EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM-
GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: PRACTICE
OF LAW/ SETTLEMENT: PRESSURES TO SETTLE/
REQUIREMENTS: STATUTORY OR RULES/ CONFIDENTIALITY/
ETHICS: GENERAL/ JUDICIAL PARTICIPATION

Tracy, Matthew "GBL Section 198-a(k): Lemon Law's Alternative
Arbitration Mechanism Requiring an Automobile Manufacturer to Submit
to Binding Arbitration at the Consumer's Request is Constitutional."
(Survey of New York Practice) St. John's Law Review January, 1990 -
Winter V.64 N.2 pp. 405-412 The author reviews a N.Y. case that
upheld the constitutionality of a binding arbitration provision in the N.Y.
lemon law. ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL
REVIEW/ SUBJ MATTER: CONSUMER/ REQUIREMENTS:
STATUTORY OR RULES/ LEGISLATION

Treeby, William D. "God's Code of Civil Procedure" Quarterly
(Christian Legal Society) December 22, 1990 - Winter V.11 N.4 p.
19 A family dispute is analyzed, attorney techniques in recurring

arbitration are included, and a miracle is credited for resolving the problem. ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: CLIENT REP/ INST NATURE: RELIGIOUS ORGANIZATIONS/ SUBJ MATTER: FAMILY (DOMESTIC REL)

Tschanz, Pierre-Yves "A Breakthrough in International Arbitration: Switzerland's New Act" International Lawyer December 22, 1990 - Winter V.24 N.4 pp. 1107-1118 The article describes Switzerland's new "user-friendly" arbitration law dealing with arbitration on an international level. The description includes costs, rules of evidence, procedures, and arbitrators' power. ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: FEES AND FUNDING OF ARBITRATOR/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ REQUIREMENTS: STATUTORY OR RULES

Turck, Nancy "Saudi Board of Grievances Enforces Foreign Judgment" Middle East Executive Reports May, 1990 V.13 N.5 pp. 9(4) The author explains why a Saudi Arabian Court is willing to enforce a foreign judgment and analyzes the Court's criteria for determining when to enforce foreign judgments. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ COMPARISONS: CROSS-CULTURAL/ JUDICIAL PARTICIPATION

Turley, Ian P. "Lawyers and Definitive Negotiation." (Australia) Law Institute Journal September, 1990 V.64 N.9 pp. 824-826 Filling the need for a concise reference to aid in negotiation skills, the author provides a summary of issues to consider and approaches to take in all types of negotiating situations. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- COMPETITIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ CRITERIA/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: USE OF BARGAINING TEAMS/ POWER IMBALANCE

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Ulmer, Nicolas C. "Jurisdictional Problems in International Commercial Arbitration: A Study of Belgian, Dutch, English, French, Swedish, Swiss, U.S. and West German Law" International Lawyer March 22, 1990 - Spring V.24 N.1 pp. 294-296 A review of a book in which the author makes a conscious attempt to survey and contrast the development of statutory and case law on specific arbitral jurisdictional issues in the eight major arbitration venues listed in the book's subtitles. ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: PREPARATION/ ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL

Ury, William L. "Dispute Resolution Notes from the Kalahari" Negotiation Journal July, 1990 V.6 N.3 pp. 229 - 238 The author, using a diary of his visit to the Kalahari desert, gives an account of dispute resolution used by the Bushmen, noting in particular the care taken to avoid starting and escalating disputes. MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: GENERAL// SUBJ MATTER: COMMUNITY/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ DISPUTE PREVENTION

Van Duzer, John E. "The Role of the AFCC" (Association of Family and Conciliation Courts) Family Law October, 1990 V.20 pp. 381-382 The Association of Family and Conciliation Courts (AFCC) is an international group created to provide services to aid in the resolution of family conflicts. The York Conference is one of many sessions held by the AFCC to improve services, refine techniques and create exposure. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: COUNSELING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: INT'L/ JUDICIAL PARTICIPATION

Van Koppen, Peter J. "Risk Taking in Civil Law Negotiations" Law and Human Behavior April, 1990 V.14 N.2 pp. 151-165 This article compares the defendant's and plaintiff's propensity to negotiate given their perceived chances of winning a formal judgement in court. NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: EVAL OF OPTIONS AND OFFERS/ NEG: PSYCH CONSIDERATIONS/ SETTLEMENT: PRESSURES TO SETTLE

Vause, W. Gary "The Good Faith Obligation in Public Sector Bargaining - Uses and Limits of the Private Sector Model" Stetson Law Review March 22, 1990 - Spring V.19 N.2 pp. 511-569 Using the Florida Public Employees Relations Act (PERA) as the primary public sector model, this article examines the duty to bargain in good faith in the public sector and discusses the differences and similarities with the NLRA's private sector scheme. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION

Ver Ploeg, Christine; Marion, Phyllis "Comparable Worth in Arbitration" William Mitchell Law Review December 22, 1990 - Winter V.16 N.5 pp. 1223-1238 The author examines the need for comparable worth laws based on the inability of the Equal Pay Act and Title VII to cure the disparities that stem from stereotypical notions of women's work versus men's work; the author also discusses the enforceability of such an act through collective bargaining and arbitration. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)

Verdugo, Richard R. "Reader's Comment - Comment on Boulter, Leonard and Williams" (Teacher Unionism: Factors that Motivate Membership) Journal of Collective Negotiations in the Public Sector January, 1990 - Winter V.19 N.1 pp. 83-84 The author criticizes Boulter's study by comparing their results to one of his own using an open-ended question technique. SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Vogeler, William "Study Finds Arbitration Cuts Costs" The Los Angeles Daily Journal October 11, 1990 V.103 N.203 p. 7 This article discusses the results of a study conducted by The Institute for Civil Justice which concluded that while leading to greater access to the judicial system, court-annexed arbitration neither reduces public costs of trial nor reduces case time. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL DISINCENTIVES/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR

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Vogeler, William "'Rent-A-Judge' Report Put Off." (California) The Los Angeles Daily Journal September 18, 1990 V.103 N.186 pp. 4(2) The California State Judicial Council defers action on a report that recommends regulations making private judges subject to public judicial rules, as council members manifest fundamental concerns over the issue of private judging altogether. INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL

Voitovich, Sergel A. "Normative Acts of the International Economic Organizations in International Law-Making" Journal of World Trade (Law-Economics-Public Policy) August, 1990 V.24 N.4 pp. 21-38 This article discusses the impact of international economic organizations (IEO) on international law making and whether the IEO's decisions and regulations represent binding international law. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/ SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ SUBJ MATTER: COMMERCIAL

Wade, Angela "Summary Jury Trials: A 'Settlement Technique' That Places a Shroud of Secrecy On Our Courtrooms?" Indiana Law Review September 22, 1990 - Fall V.23 N.4 pp. 949-976 This article provides an historical overview of the reasons for and the invention of the summary jury trial by U. S. District Court Judge Thomas D. Lambros and analyzes its effectiveness and its limitation of first amendment "right of access" in General Gas & Electric Co v. General Electric Co., 117 F.R.D. 597 (S. D. Ohio 1987). NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COMPARISONS: HISTORICAL/ COURT REFORM/ FAIRNESS

Wagner, Richard V. "Mediated Divorces Last - At Least to the Bench" Negotiation Journal January, 1990 V.6 N.1 pp. 47 - 52 Wagner analyzes the unique aspects of Maine's mediation program in divorce cases, concluding that three factors - mandatory mediation, economic considerations, and the attorney's cooperation - account for Maine's success. MED: RELATED PROCESSES-GENERAL/ MED: REP OF A CLIENT DURING PROCESS/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: VOLUNTEER OF LAY PERSONS/ REQUIREMENTS: STATUTORY OR RULES/ COMPLIANCE ISSUES

Walker, George K. "Changes in State Court Arbitration Practice" North Carolina State Bar Quarterly June 22, 1990 - Summer V.37 N.3 pp. 24(3) This article covers legislation in North Carolina which expands arbitration within that state. North Carolina courts are using arbitration and other ADR techniques as an alternative to traditional courtroom litigation. ARB: MANDATORY, COURT-ANNEXED-GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: GENERAL/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ COURT REFORM

Wallace, Perry E., Jr. "Securities Arbitration After McMahon, Rodriguez, and the New Rules: Can Investors' Rights Really be Protected?" Vanderbilt Law Review May, 1990 V.43 N.4 pp. 1199-1251 This author traces the historical development of securities arbitration to a place of prominence in the area of broker-client disputes. He then offers suggestions for insuring fairness and the continued integrity of the process. ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES/ 3RD PARTY: CONFLICT OF INTEREST/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ETHICS: GENERAL/ FAIRNESS

Walsh, William J. "Did the Indiana Teacher Collective Bargaining Act Foster Labor Peace?" Journal of Collective Negotiations in the Public Sector September 22, 1990 - Fall V.19 N.4 pp. 305-317 The author concludes that statutorily mandated collective bargaining for Indiana public school teachers has improved the bargaining atmosphere. SUBJ MATTER: EDUCATION/ DISPUTE PREVENTION

Walsh, William J.; Witney, Fred "Indiana Teacher Salaries and The Teacher Collective Bargaining Act" Journal of Collective Negotiations in the Public Sector June 22, 1990 - Summer V.19 N.3 pp. 197-205 The article examines the effect of the Indiana Teacher Collective Bargaining Act on teacher salaries and concludes that the legislation prevented teachers from negotiating both salary improvements and increased job security. SUBJ MATTER: GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Waxman, Geraldine L. "Mediation: Part 1; Background and Overview." (The 1989 Survey of Florida Law) Nova Law Review March 22, 1990 - Spring V.14 N.2-3 pp. 933-937 This article gives an overview of

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the mediation process and explains how mediation functions as a problem solving approach to conflict resolution where neither party "wins" at the expense of the other party. MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ 3RD PARTY: NEUTRALITY/ 3RD PARTY: VOLUNTEER OF LAY PERSONS

Weeks, Joseph R. "Continuing Liability Under Expired Collective Bargaining Agreements." (part 1) Oklahoma City University Law Review September 25, 1990 - Spring V.15 N.1 pp. 1-207 The author, in part 1 of a trilogy of articles on the federal common law on labor, summarizes the law in four contexts in which an attempt may be made to enforce rights created by a collective bargaining agreement which has terminated. The four areas of law which are summarized are (1) Section 8(a)(5) of NLRA; (2) Section 301; (3) ERISA, and (4) state law. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Weeks, Joseph R. "Continuing Liability Under Expired Collective Bargaining Agreements." (Parts 2 & 3) Oklahoma City University Law Review March 22, 1990 - Summer V.15 N.2 pp. 359-602 This article is a continuation of an article on the federal common law of labor. The author, in Part II of this trilogy, analyzes collective agreement claims made post-termination under four contexts of the law. In Part III, the author concludes that this area of law needs to be codified as the federal common law inadequately protects post-termination claims. ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ AGREEMENT ON PROCEDURE/ EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES

Weintraub, Russell J. "A Proposed Choice-Of-Law Standard for International Products Liability Disputes" Brooklyn Journal of International Law August 20, 1990 V.16 N.2 pp. 225-239 This article examines international choice of law problems for products liability and suggests a rule; the article also explores the rules' implications for forum non conveniens dismissals of actions brought by foreign plaintiffs

injured abroad. INST NATURE: JUSTICE SYSTEM- GENERAL/
INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER:
CORPORATE/ SUBJ MATTER: CONSUMER/ SUBJ MATTER:
INT'L/ SUBJ MATTER: OTHER TORTS

Werner, Jacques "Arbitration With the Arab Countries" Journal of International Arbitration September, 1990 V.7 N.3 pp. 92(1) A book review of Arbitration with the Arab Countries, by Abdul Vd El-Viis, Vise, 1990, noting that the book analyzes in detail not only the different arbitration systems in the Arab nations, but also the extent to which each nation's arbitration systems remain linked to the muslim law, the Shari'a.

ARB: BINDING ARB- GENERAL/ INST NATURE: GENERAL/
INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GENERAL/
SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL

Werner, Jacques "International Chamber of Commerce Arbitration, 2d ed." (book review) Journal of International Arbitration September, 1990 V.7 N.3 pp. 91(1) The book reviewer applauds the new work entitled International Chamber of Commerce Arbitration as a good road map for practitioners in this forum. However, the reviewer points out some of the shortcomings on the issues of institutional versus ad hoc arbitration, ICC costs and administrators' fees, and the publication of expurgated ICC awards. ARB: CLIENT REP/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ ROLE OF LAWYERS

Wessel, Milton R. "Alternative Dispute Resolution for the Socioscientific Dispute" Journal of Law and Technology February, 1990 - Spring V.1 N.1 pp. 1-29 The article contends that Alternative Dispute Resolution is not a "new" approach, that biases in the criminal justice system work against the solution of large complicated disputes, and that the academic community must work to develop a socioscientific dispute resolution mechanism for the major science and technology-based controversies which face our society today. NON-BINDING RECOMMENDATION PROC- GENERAL/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: MEDICAL MALPRACTICE/ SUBJ MATTER: SCIENCE & TECHNOLOGY/ COURT REFORM/ JUDICIAL PARTICIPATION

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West, Fowler C. "Securities Arbitration." (book review) Commodities Law Letter May, 1989 V.9 N.3 pp. 6(3) Securities Arbitration, a new book by Professor Hoblin, provides an excellent explanation of the securities arbitration process. The book covers the different forms of arbitration, jurisdictional issues, prehearing concerns, and many others, including the problems that attorneys cause at the arbitration hearing. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: PREPARATION/ ARB: CLIENT REP/ ARB: FINAL OFFER ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: SECURITIES/ TYPE OF SOURCE: BOOK REVIEW

Westin, David; Chrocziel, Peter "Interim Relief Awarded by U.S. and German Courts in Support of Foreign Proceedings" Columbia Journal of Transnational Law June 22, 1990 - Summer V.28 N.3 pp. 723-746 After reviewing and contrasting U.S. and German law with respect to interim relief in support of foreign arbitrations and judicial proceedings, this article concludes with some suggestions of how a more unified approach to interim awards in support of foreign proceedings might be developed and what that approach might be. ARB: BINDING ARB-GENERAL/ ARB: PREPARATION/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: INT'L/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE/ COURT REFORM/ JUDICIAL PARTICIPATION/ PROVISIONAL REMEDIES

White, Anita R. "Mediation in Child Custody Disputes and a Look at Louisiana." (Family Law Symposium) Louisiana Law Review May, 1990 V.50 N.5 pp. 1111-1130 This article explores the use of mediation in Louisiana child custody cases and concludes that: (1) most couples are satisfied with their post-divorce custody arrangements and (2) mediation should be the first resort in order to protect children. MED: RELATED PROCESSES-GENERAL/ MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: PUBLIC POLICY/ REQUIREMENTS: STATUTORY OR RULES/ JUDICIAL PARTICIPATION

White, Rebecca Hanner; Kaplan, Robert E.; Hawkins, Michael W. "Ohio's Public Employee Bargaining Law: Can it Withstand Constitutional Challenge?" University of Cincinnati Law Review March 22, 1990 - Winter V.53 N.1 pp. 1-47 An examination of Ohio's public employee collective bargaining law and an argument that the law is an

unconstitutional delegation of legislative authority. ARB: BINDING
ARB- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ
MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ SUBJ
MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER:
PUBLIC POLICY/ SETTLEMENT: AUTHORITY/ REQUIREMENTS:
STATUTORY OR RULES/ LEGISLATION

Widmann, Edward H.; Dickinson, Carla A. "Arbitration: An
Alternative to Litigation of Attorney Malpractice Claims" Colorado
Lawyer September, 1990 V.19 N.9 pp. 1835(3) The article
advocates the use of arbitration agreements to settle malpractice claims and
outlines the risks and benefits of this option. ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ ARB: OBTAINING AND
ENFORCING AGREEMENT TO ARB/ ARB: PREPARATION/
ECONOMIC ADVANTAGES OF ADR/ ETHICS: GENERAL

Wilkinson, John H., ed. Donovan Leisure Newton & Irvine ADR
Practice Book This comprehensive text describes the various forms of
ADR and explains when and how to use each one. The text also points
out the various pitfalls and offers suggestions on how to avoid them.
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/
MED: RELATED PROCESSES-GENERAL/ NON-BINDING
RECOMMENDATION PROC- MINI-TRIAL/ NON-BINDING
RECOMMENDATION PROC- SUMMARY JURY TRIAL/
NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: COMMERCIAL/ SUBJ MATTER: CORPORATE/
REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS:
MANDATE TO USE

Wilson, Katherine "Lawyers Engaged in ADR." (Australia) Law
Institute Journal August, 1990 V.64 N.8 pp. 688-689 The author
describes Lawyers Engaged in Alternative Dispute Resolution, dispute
resolution organizations in Australia. NEG: W/ OR W/O ASSIST OF
3D-PARTY NEUTRAL-GENERAL/ MED: RELATED
PROCESSES-GENERAL/ NEG: TACTICS, STRATEGIES AND
TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND
TECHNIQUES- GENERAL

Windmuller, John P. "Current Approaches to Collective Bargaining"
(book review) Industrial and Labor Relations Review April, 1990
V.43 N.4 pp. 490-491 The book review author critiques a collection
of twenty papers prepared for an International Labour Office symposium

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which reviews current trends in collective bargaining in industrialized market economy countries. SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW

Winship, Peter "A Guide to the UNCITRAL Model Law on International Commercial Arbitration: Legislative History and Commentary" (book review) International Lawyer June 22, 1990 - Summer V.24 N.2 pp. 569-574 The author reviews Documentary History of the Uniform Law for International Sales and A Guide to the UNCITRAL Model Law on International Commercial Arbitration: Legislative History and Commentary, two guides to background documents of the drafting of the 1976 UNCITRAL Arbitration Rules and proposed 1985 Model Law on International Commercial Arbitration, by the United Nations Commission on International Trade (UNCITRAL). The author concludes that both are excellent guides to these documents; however, the high cost and English-only formats of these books raises a political concern as to their availability to non-western scholars and attorneys. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ CONFERENCE PROCEEDINGS

Woods, Winton D. "Judge Hill's Rule." (Merits of Speedy and Inexpensive Resolution of Ordinary Disputes) Indiana Law Review January, 1990 - Winter V.23 N.1 pp. 137-144 The author, in a tongue-in-cheek essay, critiques the inefficient information processing courtrooms of today, and suggests a variety of ADR methods to solve the problem with regard to ordinary disputes. COURT REFORM/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS/ ROLE OF LAWYERS/ SETTLEMENT: PRESSURES TO SETTLE/ SUBJ MATTER: GENERAL

Wulfsberg, H. James; Cummings, Donald J. "Construction Claims Leading the Trend to a Variety of Out-of Court Settlements" Virginia Bar Association Journal June 22, 1990 - Summer V.16 N.3 pp. 11 (4) The authors express their approval of the trend toward alternative dispute resolution in the construction industry. While noting the cost and time savings of negotiation, mediation, and arbitration, the authors hold mediation to be the best form of dispute resolution used today. NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,

COURT-ANNEXED- GENERAL/ SUBJ MATTER: CONSTRUCTION/
AGREEMENT ON PROCEDURE

Wyssling, Richard H.; Webb, Thomas E., Jr. "Judicial Review of the Arbitration Process: A Union Viewpoint" Labor Law Journal August, 1990 V.41 N.8 pp. 484-487 A look at court decisions governing binding arbitration and their effect on unions. ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ JUDICIAL PARTICIPATION

Yates, Carolyn "The Conciliation Project Report: A Study of Non-Judicial Dispute Resolution in Family Cases" Journal of Social Welfare Law 1990 This article documents the findings of the Conciliation Project Unit, a unit set up in England in 1985 for the purpose of preparing a report enabling the Lord Chancellor to determine whether or not a publicly funded national family mediation service should be established, and, if so, how this would be accomplished. MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT

Yeomans, Richard D. "Counseling the Client on Commercial Arbitration Clauses" The Practical Lawyer January, 1990 V.36 N.1 pp. 17-26 This article discusses the benefits as well as the costs of arbitration and particularly focuses upon the arbitration clause, including how to draft a correct arbitration clause; how to have a clause requiring arbitration enforced; and how the ramifications are imposed upon arbitration clauses by the Federal Arbitration Act (9 U.S.C. 1 et seq.). ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/ INST NATURE: GENERAL/ SUBJ MATTER: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR/ JUDICIAL PARTICIPATION/ ROLE OF LAWYERS/ TEACHING

Young, J.A. "Mediate Your Real Estate Disputes" The Practical Real Estate Lawyer March, 1990 V.6 N.2 pp. 25-30 The article suggests that most small-business real estate disputes should be handled through mediation and then explains what the role of the attorney in the

process should be; how a mediator should be chosen; how the mediation should be carried out; and how all parties should be willing to compromise to some degree. MED: OBTAINING AGREEMENT TO USE/ MED: TIMING/ MED: OPENING AND SETTING GUIDELINES/ MED: ENCOURAGING COMM AND NEG/ MED: COUNSELING/ MED: REP OF A CLIENT DURING PROCESS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ REQUIREMENTS: MANDATE TO USE/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS/ TEACHING

Yuda, Geoffrey "Mediation Proposal, Mass Disaster Plan Approved By PBA" Pennsylvania Law Journal-Reporter December 3, 1990 V.13 N.45 p. 3(4) The Pennsylvania Bar Association reports that it and the House of Delegates have voted to support state legislation protecting against disclosure of communications and documents prepared for or made in the context of mediation. MED: PUBLIC POLICY DIALOGUE/ MED: ENCOURAGING COMM AND NEG/ MED: REP OF A CLIENT DURING PROCESS/ 3RD PARTY: LIABILITY & IMMUNITY/ 3RD PARTY: NEUTRALITY

Zack, Arnold M. "An American Arbitrator in Donetsk, USSR" Arbitration Journal September, 1990 V.45 N.3 pp. 43-46 This article examines labor arbitration in Donetsk, a coal mining city in the Ukraine. The author reviews the differences in labor-management conflicts he observed during a 1990 visit. ARB: BINDING ARB-GENERAL/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ COMPARISONS: CROSS-CULTURAL

Zax, Jeffrey S.; Ichniowski, Casey "Bargaining Laws and Unionization in the Local Public Sector" Industrial and Labor Relations Review April, 1990 V.43 N.4 pp. 447-462 This article evaluates the effect of bargaining laws on the unionization of local government departments. The author argues that the increased unionization of these government departments is due to the imposition of duty to bargain laws, rather than pent-up demand for unions. INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER:

LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ COMPARISONS: HISTORICAL

Zeldin, Wendy "Arbitration in Settlement of International Commercial Disputes Involving the Far East and Arbitration in Combined Transportation" (book review) International Journal of Legal Information June 22, 1990 - Summer V.18 N.2 pp. 147-148 The reviewer found the book, which is based on the proceedings of the International Council for Commercial Arbitration Conference (Tokyo, 1988), to be an in-depth look at comparative arbitration law, not just that of the Far East.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/
SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/
COMPARISONS: CROSS-CULTURAL/ CONFERENCE
PROCEEDINGS